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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the full-day meeting on the rights of the child

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolutions 22/32 and resolution 25/6, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a summary of the full-day meeting on the rights of the child. The report contains a summary of the discussions held on 13 March 2014 during the annual full-day meeting, the theme of which was access to justice for children.

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I. Background

1. In its resolution 7/29, the Human Rights Council affirmed its commitment to effectively integrate the rights of the child in its work and that of its mechanisms in a regular, systematic and transparent manner, taking into account specific needs of boys and girls. It decided to dedicate, at a minimum, an annual full-day meeting to discuss different specific themes on the rights of the child, including the identification of challenges in the realization of those rights. In its resolution 22/32, the Council decided to focus its 2014 full-day discussion to the theme "Access to justice for children". Also in resolution 22/32, the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare a report on that issue and to present it to the Human Rights Council at its twenty-fifth session, to inform the annual day of discussion on children's rights.[1] It also requested the High Commissioner to circulate a summary report of the full-day meeting on access to justice for children. The present report is submitted to the Council pursuant to that request.

2. Since the adoption of resolution 7/29, the Human Rights Council has held a number of thematic discussions on children's rights: "20 years of the Convention on the Rights of the Child: achievements and challenges for its full realization" (at its tenth session); "The fight against sexual violence against children" (thirteenth session); "Protection and promotion of the rights of children working and or living on the street" (sixteenth session); "Children and the administration of justice" (nineteenth session); and "The right of the child to the highest attainable standard of health" (twenty-second session).

3. The annual full-day meeting was held on 13 March 2014, and was aimed at raising awareness of the challenges faced by children in gaining access to justice, reaffirming existing standards and commitments made by Member States to empower children, including those in particularly difficult situations, and highlighting good practices and lessons learned from the work conducted by different actors. The full-day meeting consisted of two panels: one focusing on international norms and standards on access to justice for children, and child-sensitive justice; another devoted to empowering children to claim their rights. The annual day of discussion was chaired by the President of the Human Rights Council.

II. International norms and standards on access to justice for children, and child-sensitive justice

4. The morning panel was moderated by the Head of the Permanent Delegation of the European Union to the United Nations Office at Geneva, Mariangela Zappia. The Deputy High Commissioner opened the panel discussion. A presentation was then made by Child Rights Connect, followed by presentations by the Regional Director for Central and Eastern European and the Commonwealth of Independent States of the United Nations Children's Fund (UNICEF), Marie Pierre Poirier; a member of the Committee on the Rights of the Child, Renate Winter; the Head of Programmes for Defence for Children International in Sierra Leone, Tom Julius Beah; Vice-President and Rapporteur on the Rights of the Child of the Inter-American Commission on Human Rights, Rosa Maria Ortiz; and the Special Representative of the Secretary-General on Violence against Children, Marta Santos Pais.

[1] See A/HRC/25/35.

A. Opening remarks by the Deputy High Commissioner

5. In her opening statement, the Deputy High Commissioner for Human Rights stated that access to justice for children was at the core of the protection of human rights and an essential prerequisite for the protection and promotion of all other human rights. She explained that access to justice meant that children could obtain fair and timely remedies for violations of their rights, and recalled that, although not explicitly mentioned in the Convention on the Rights of the Child, the right to an effective remedy was recognized as an implicit requirement of the Convention, as shown in general comment No. 5 of the Committee on the Rights of the Child. In order to enjoy access to justice, children must also be able to enjoy other fundamental rights provided in international instruments, including the rights to a fair trial and to have access to information. Children must also have access to the right to be heard and protected from discrimination on any grounds. She highlighted the challenges faced by children in their access to this right, including the complexity of legal systems, the lack of awareness and information, fear of reprisals and stigmatization, social attitudes concerning children, and dependence on support from adults. Certain groups of children also faced additional obstacles in their access to justice, such as children in institutional care, migrant children, children living in extreme poverty and children affected by conflict.

6. At a national level, the Deputy High Commissioner set out two main aspects that need to be considered: the empowerment of children to claim their rights, including awareness of rights, the provision of appropriate information and recognition of the evolving capacity of children; and the ability of national legal systems to accept and address challenges faced by, or on behalf of, children. She suggested that this required child-sensitive procedures that are independent, safe, effective and easily accessible. At the international level, she drew attention to the third Optional Protocol to the Convention on the Rights of the Child, due to enter into force in April 2014. The Committee on the Rights of the Child was currently working on a child-friendly complaint form to allow children to use the complaints procedure and to address their concerns to the Committee directly. She encouraged States to ratify the Protocol.

B. Statements by panellists

7. The moderator of the discussion, Ms. Zappia, stated that, for rights to have meaning, effective remedies had to be available to address violations. Children's rights were not "mini-rights", but had to be equally protected, with acknowledgement of the additional barriers existing because of their status as children.

8. Ms. Zappia introduced a presentation by Child Rights Connect, in which it outlined the results of a survey of 310 children between 11 and 17 years of age, and from 24 countries, on the justice system. Many children felt that they were not always heard or taken seriously, and that they were often easiest to ignore, as they lacked power. Parents and carers were identified as the primary sources of information concerning access to justice, although 20 per cent of children preferred to seek information from non-family members, who were perceived as easier to talk to and less biased. Many felt that engaging with the justice system would likely expose their families to danger. Respondents stated that they wanted practical support, in the form of advice, guidance, information and, if necessary, an appropriate reference person, such as a teacher, social worker, psychologist, parent or carer. They also wanted to stay informed and be contacted regularly about their case, and stressed the need for a swift justice system, taking into account children's perception of time.

9. Ms. Poirier defined access to justice as the right of individuals to obtain a quick, effective and fair response, to prevent or solve disputes, to control the abuse of power through transparent processes and to have affordable and accountable mechanisms available. Without accountability, human rights instruments, even if widely ratified, had no meaning. She stated that access to justice was a challenge for all children, one that was especially difficult for the most vulnerable. She emphasized that a lack of access to justice was a defining characteristic of poverty. Equitable access to justice implied ensuring that all children were served and protected by the justice system. When accessible to all, the justice system was a powerful means to end abuse and restore entitlements, such as social benefits.

10. Ms. Poirier reported the preliminary findings of a research study initiated by UNICEF in Europe and Central Asia, which indicated that children faced the same barriers as adults in their access to justice – for example, fees, distrust in the system, lack of information, and stigma – but also faced obstacles relating to their status, including a lack of legal standing to participate, or social norms that made it unacceptable or inconceivable for a child to lodge a complaint without parental consent.

11. Ms. Winter stated that "child-friendly" justice was age-sensitive, accessible, speedy, diligent, suited to the rights of the child and supported a child to participate in and understand proceedings. This included not only penal but also civil and social assistance proceedings, covering such diverse cases as asylum seekers, migrant children, rape, abuse and divorce. She stated that she was yet to see a country in which all these standards were met. Ms. Winter cited several individual cases in which children were not protected, had no child-sensitive assistance and had been wrongfully punished. She gave the example of asylum-seeking children separated from their families, who were assisted by an appointed person who knew about the case but not the child, without child-appropriate language or information about the proceedings given to the child, and of children in remote places who had access only to a traditional justice system that did not recognize a child's rights. She hoped that the World Congress on Juvenile Justice in January 2015 would provide an opportunity to implement what should have already been implemented.

12. Mr. Beah stated that the right to a legal representative was a fundamental human right; although this right was well established for criminal matters, it should not be overlooked in civil matters. While some countries had strong laws, they were not always followed in practice; on the other hand, some countries had good practices that were not enshrined by law. The degree of legal representation varied from country to country; in developing countries, the law often did not provide for representation, and even when it did, there are no qualified lawyers or appropriate resources to fund them. Mr. Beah highlighted the difficulties arising in relation to traditional justice systems that did not recognize international standards, and prioritized community cohesion over the best interests of the child. Countries should ensure procedures and measures for empowering children and families to participate effectively, and enforce laws that already existed.

13. Ms. Ortiz stated that access to justice was a fundamental pillar on which democracy and rule of law rested. Ten per cent of complaints received by the Inter-American Commission on Human Rights were from children, and a large number of them related to lack of access to justice. In the light of the specific bearing that the passage of time has on children, petitions relating to children were expedited. The Commission had a special rapporteur on the rights of children, and had recognized that, to have effective access to justice, children should be afforded free legal advice and their right to be heard guaranteed in accordance with their age and maturity. All decisions made must be grounded in the best interests of the child. It was essential that children, families and communities were empowered with information about rights and channels to report violations. She emphasized the importance of State support for families and communities to be able to care for children responsibly, which would guarantee the effective protection of their rights.

14. The Special Representative of the Secretary-General on Violence against Children emphasized that access to justice was at the heart of the human rights agenda, and was fundamental for sustainable development and good governance. The rule of law and access to responsive justice systems helped to drive development, besides having their own intrinsic value. Countries that had been affected by violence and instability, poor rule of law and weak law enforcement were also those that found it difficult to overcome impunity, and had children at risk of poor health and social exclusion. For children, the justice system was not only complex, but a labyrinth – an unknown universe they could not understand. Access to justice required a system that was well-equipped, had capacity and resources; but it also had to be a system that children understood, felt close to, trusted, that did not threatened them. States needed to have mechanisms for specialized legal aid for children and professional codes of conduct to know how to engage with children.

C. Plenary discussion

15. During the morning panel, representatives of the following States and organizations took the floor: Yemen (on behalf of the Arab Group), Costa Rica (on behalf of the Community of Latin American and Caribbean States), Senegal (on behalf of the Group of francophone countries), the European Union, the Organization of Islamic Cooperation, Poland, Australia, the Republic of Korea, Thailand, Chile, Belgium, Montenegro, the Republic of Moldova, Qatar, Slovenia, Slovakia, Estonia, Algeria, Austria, Turkey, the Syrian Arab Republic, Italy, France, Paraguay, Cyprus, China, Kuwait, Pakistan and Sierra Leone. Representatives of the following national human rights institutions and non-governmental organizations also took the floor: the Scottish Human Rights Commission, Plan International (in a joint statement), Human Rights Advocates, the National Human Rights Commission of Morocco, the International Institute for Non-Aligned Studies and the Centre for Environmental and Management Studies.

16. During the discussion, delegations expressed their support for the report of the High Commissioner on access to justice,[2] and its conclusion that access to justice for children was a fundamental right and an essential prerequisite for the protection and promotion of all other human rights of children. Children could not have access to justice if they were not empowered. They had to be recognized as rights-holders and able to participate fully in all procedures, in accordance with their age and maturity. The third Optional Protocol to the Convention on the Rights of the Child was highlighted by a number of States as a way of supporting national efforts to guarantee access to justice for children. It was stressed that the promotion and protection of children's rights should be at the core of a national human rights policy.

17. Member States reiterated their view that there was a need to build greater understanding and awareness of children's rights, and emphasized that providing children with knowledge, skills and information was an important element in increasing children's access to justice. Barriers to effective access to justice including fear, social and cultural stigma and insufficient information, were mentioned, as were lack of appropriate services and trained officials. In this regard, insufficient resources were raised as a consistent concern. The impact of austerity measures and legal aid cuts in developed countries, and their disproportionate effect on children, were also mentioned.

18. States stressed that the justice system had to be tailored to the specific needs of children in order to avoid re-victimization and to protect children from further hardships when seeking remedies. Many States gave examples of how access to justice for children

[2] A/HRC/25/35.

had been integrated at a national level. Initiatives included ombudspersons; help lines; free legal assistance; "web constables" who could be contacted via social media or e-mail for advice and for report information to police; child-friendly rooms in social work centres; complaints boxes in schools; the use of videolinks and closed-circuit television for evidence in judicial hearings; separate tribunals for child offenders with specialized judges; and the provision of alternative non-custodial mechanisms in juvenile justice, including mediation, probation and rehabilitation within the family. States recognized, however, that many national systems needed strengthening, which required an international effort.

D. Concluding remarks

19. Ms. Poirier pointed out that the right to access to justice for children in the United Nations had also been addressed in the Rule of Law Coordination and Resource Group. In 2008, the Secretary-General had issued a guidance note requesting all agencies to integrate a common approach to this issue into their work. The participation of child rights activists, and of children themselves, was vital in this development. There was still a long way to go to guarantee access to justice to all children, but it was encouraging to see that many States supported protection of children in their criminal, civil and administrative processes.

20. Ms. Poirier recommended that information on access to justice be in child-friendly languages, and could be disseminated in schools where it could be part of wider educational package on rights. For children out of school, actors that were most in contact with vulnerable children, for example workers in social assistance centres, should be involved. She stressed the importance of the role of the family, where children went for trusted information, so information directed at children should be accompanied also by suitable information for the parents.

21. Ms. Winter stated that the impact of the third Optional Protocol to the Convention on the Rights of the Child would be in the medium and long terms, rather than immediate. To make a complaint under the Protocol, children would not have to fill in a form, but could write, draw, send a video message or use other media as appropriate. Apart from this mechanism, the Committee on the Rights of the Child did not have many possibilities for redressing violations of rights, but could write recommendations concerning the violations of States, and publish them electronically, which could be a very powerful tool. She suggested that access to justice would be strengthened by public information campaigns based on inclusion in school curricula and regular visits to schools by police and judges. To ensure that children were always heard in judicial proceedings, laws could be adopted that made any decision void if the child had not participated. She also proposed the use of non-judicial mechanisms for violence in families, and cited hotlines, ombudspersons, teachers of trust and school psychologists as examples. She emphasized that laws granting rights to children should be devised, and mechanisms to protect these rights should be established; but steps also had to be taken to ensure that they were implemented and enforced.

22. Mr. Beah concluded that, in order to ensure access to justice, children had to have advocates that could speak on their behalf when they or their parents could not. In response to a question on ensuring that legal procedures were implemented, he recommended the involvement of legal professionals in the development of tools, as they would be more likely to use tools they had been involved in creating. He recognized the challenges faced by children in their access to justice, and stated that no matter how many rights children had, they had no meaning if no access to effective redress was available.

23. Ms. Ortiz referred to the concern mentioned by some participants about the extent to which society backed the reform that had been the outcome of the Convention and its protocols. It was clear that change had not yet been enough, and there was still much to do;

however, if society did not support the reforms, very difficult situations, backlashes and back-stepping would be the result. There was not enough support by the media, and there were also other issues, such as the security of citizens and violence, that were not appropriately shown. There was a need to work hand-in-hand with civil society, and for everyone to work together to support the efforts of the State. Strengthening families and communities would prevent problems from arising, and assist in protecting children. The recommendations made by the Committee on the Rights of the Child had to be heeded and plans of action to implement them had to be considered. She also highlighted the use of new technologies in ensuring the enjoyment of the right of the child to be heard.

24. In her concluding remarks, the Special Representative of the Secretary-General highlighted the importance of active child participation in the post-2015 development agenda, including child rights ambassadors to put the issue of access to justice at the centre of the discussion. Responding to a question concerning mechanisms for reporting domestic violence and abuse, she suggested that the potential of schools and health centres should never be ignored, and emphasized the importance of access to professionals who were well trained and could refer cases to the system without children having to go directly to court themselves. Access to justice was important when a violation had taken place, but also has an impact before this. Children would always be frightened if they did not understand that there was a system ready to protect and assist them. The main impact of the third Optional Protocol would not be the number of complaints but its impact at the national level and the better protection of children's rights domestically. This would not be achieved if children were unaware of the Protocol: what it was, how it could be used, and how they could have access to institutions. The real indicator of progress would be the most vulnerable children, and ensuring their protection on an equal basis.

III. Empowering children to claim their rights

A. Statements by panellists

25. The afternoon session focused on the effect of child empowerment on using and claiming their rights. The Ambassador and Permanent Representative of Uruguay to the United Nations Office and other international organizations in Geneva, Laura Dupuy Lasserre, moderated the panel. Presentations were made by the Director-General of the International Development Law Organisation, Irene Khan; the representative of Paralegal Committees of Nepal, Maja Bhandari; the Programme Development Director of Penal Reform International, Nikhil Roy; the President of the International Catholic Child Bureau (Mali), Abraham Bengaly; and the French Children's Defender, Ombudsman for Children and Deputy Ombudsman of France, Marie Derain.

26. Ms. Khan acknowledged that access to justice was a complex and multifaceted issue that concerned procedural and substantive justice. It was particularly crucial for children, who had no vote and no voice in policymaking or in the allocation of resources. Access to justice was often difficult because of poor or inadequate laws, weak institutions and lack of resources; but the failure to listen to children, and the poor understanding of the social, cultural and economic context in which they lived, also contributed. Access to justice implied understanding justice from a child's perspective. Research had showed that, while adults saw justice in terms of formal, administrative or judicial processes, for children it was much broader, and concerned a whole range of decisions that affected them, including questions of family, health, immigration and identity.

27. Ms. Khan advocated for both top-down and bottom-up approaches. Institutions needed to be strengthened, but children and their families also had to be empowered and

informed. It was important to understand local realities, and programmes had to be shaped by those who used them. The challenge ahead for the international community was to mobilize and take practical measures to ensure that children were able to realize their rights and fulfil their true potential, recognizing that access to justice should be tailored to local needs, context-based and responsive to children's needs.

28. Ms. Bhandari stated that there were 23,000 paralegal members in Nepal, all of them women, all of them volunteers. These women were trained to support children's access to justice by detecting incidents of violence and abuse against children, and offering early intervention. It was important to protect children both physically and mentally, and to prevent stigmatization and ostracism. This was done by mobilizing both professional and social support, organizing medical treatment, counsellors and legal aid, as well as helping friends and family to provide comfort and support. Paralegals acted as a bridge between the community and the justice system, and offered impartial and non-partisan assistance. They worked at the grass-roots level to educate citizens about children's rights and access to justice. Ms. Bhandari urged the international community to encourage national Governments to scale up initiatives to ensure children's access to justice, especially at the community level, as this was where support was needed most.

29. Mr. Roy stated that children deprived of their liberty were at a high risk of having their rights violated. Children in care and justice institutions were at a higher risk of violence than almost all other children, and in such settings often had little recourse to justice or effective avenues for registering complaints. Special attention therefore had to be paid to the additional challenges faced in access to justice by those deprived of their liberty. This included access to legal aid, the creation of independent and specialized ombudspersons, and a safe, accessible and child-friendly complaints mechanism. Accessibility required that children be informed of the existence of and process for using complaints mechanisms, and providing children with assistance and legal aid to submit complaints. A safe complaints procedure required confidentiality when complaints were filed, and throughout the procedure. An effective procedure had to deal with complaints without delay, and keep children informed of the process. Every complaint had to trigger an investigation, and children had to have access to complaints mechanisms without fear of stigmatization, harassment or reprisal.

30. Mr. Bengaly stated that the upsurge of violence in Mali had increased abuse and violations of the rights of children; in particular, the use of children in armed conflict had led to the arrest of many juveniles. Children had had to adopt survival strategies to protect themselves, which often put them in conflict with the law. Access to justice for such children was difficult, particularly given the complex nature of the judicial system. There were no juvenile courts outside the capital, and procedures moved slowly. Sociocultural obstacles persisted; once in conflict with the law, children could be abandoned because of the shame felt by their family, and bear a stigma within the community once released from prison. Those factors made it difficult for children to turn to the courts, so it had become only a last resort, when other means had been exhausted. In a post-crisis country, Mr. Bengaly advocated for the promotion of restorative justice to increase the possibility of assisting children in conflict with the law.

31. Ms. Derain stated that, very often, children were excluded from the justice system because it was impossible for them to know their rights or to realize them themselves. The task of the ombudsman was to ensure the best interests and rights of the child as enshrined in the law and international treaties ratified or approved by France. The children's ombudsman could be an alternative means of conflict settlement, particularly suited to vulnerable children. It could be an alternative to the courts, and had many powers, including investigation to make it possible to present all relevant information for the court, as well as conducting hearings. It also had the ability to propose legislative reform and to

submit observations to a jury; however, it could not call into question a court's decision. The purpose was to render more humane the relationship between citizens and public authorities; mediate rather than sanction, reparation rather than fault and punishment.

B. Plenary discussion

32. During the afternoon panel discussion, representatives of the following States and organizations took the floor: the European Union, Norway, El Salvador, Spain, Sri Lanka, Slovenia, Switzerland, Honduras, Ireland, Nepal, the Council of Europe, Monaco, Argentina, Namibia, the United States of America, Saudi Arabia, Libya, Romania, the Russian Federation, Indonesia, Maldives, India, Mexico, Egypt, Malaysia, Brazil, Uruguay, Morocco and South Africa. Representatives of the NGO Group for the Convention on the Rights of the Child, the International Catholic Children's Bureau, the Centre for Inquiry, the Ombudsman of Colombia, the Iranian Elite Research Centre and the National Human Rights Commission of Canada also took the floor.

33. During the interactive dialogue, Member States emphasized that there was a need to think about how children were viewed and treated: they should be recognized as holders of their own rights, and legally empowered to defend them. The importance of article 12 of the Convention on the Rights of the Child was noted, and it was stressed that States should ensure an enabling environment for the voice of the child to be heard. In this respect, States reiterated the importance of providing information to children in a form suited to their needs. It was recognized that children had to be aware of their rights to be able to promote them, and to stand up for them, and an international campaign was advocated to that end. Participants noted that it was necessary to find innovative, creative and accessible ways to ensure that children had access to and were aware of information. Several examples of national practices were given, including the creation of a teaching toolkit; child-friendly brochures to prepare children to participate in court processes and inform them about the role and function of courts; and raising awareness of rights through street plays and door-to-door visits. Some States indicated that empowering and enabling children to have access to justice was fundamental for child protection.

34. Many States highlighted the continued challenges facing children in gaining access to justice. It was noted that solid legislation was based on objective and comparable data, which were not available in this field, making it difficult to assess fully the extent to which children had access to justice. Lack of training was identified by States as a serious issue, with many noting the need for greater training of judges, prosecutors and law enforcement officers. Accountability was also identified as an important factor in ensuring access to justice. The need for independent national, regional and international monitoring mechanisms was mentioned to ensure the effective promotion of rights.

35. Restorative justice was an important theme addressed by many participants, and States noted the importance of encouraging alternative mechanisms, such as diversion, community-based programmes, mediation and non-custodial sentences for children in conflict with the law. It was mentioned that restorative justice instilled a sense of responsibility in the child, created social balance and allowed the child to reintegrate into the community.

C. Concluding remarks

36. **Ms. Khan stressed the importance of recognizing that access to justice involved not only children accused of crimes but also children who were victims of violations of their rights. She highlighted the opportunity presented by the post-2015 development**

agenda to draw attention to the issue of access to justice, in particular concerning data collection. In relation to the provision of information to children, Ms. Khan recognized that children did not always feel confident about talking to institutions and officials, and often looked to those with whom they had a familiar relationship to obtain information. Information designed for children, by children, would have a greater impact, and there was a need to be talking to children about how they would like information to be provided.

37. In conclusion, Ms. Khan stressed the importance of capacity-building, and the development of State institutions and service providers to provide support for children in their access to justice. Customary and informal justice systems were often more accessible to children, especially those living in poverty; it was therefore necessary to engage more with these systems and ensure that they met international standards.

38. Ms. Bhandari highlighted the immense contribution made by paralegal committees in increasing access to justice for women and children in rural Nepal. These workers were on the frontline of making sure that people were aware of their rights, helping them demand access to justice, and making institutions more accountable. She noted that the task was a large one, and urged States for their support.

39. Mr. Roy urged the use of prevention strategies, especially those involving community-based interventions that allowed social workers and counsellors to work with children at an early stage. He pointed out that UNICEF and the United Nations Office on Drugs and Crime had produced a set of indicators to help to collect data on issues relating to justice, and indicated that they should be more widely known and used. With regard to capacity-building and training, he stated that e-courses were being piloted that could reach a wider audience than ever before. Children were now using social media in a way that was unthinkable a few years earlier, and there was a need to be able to engage with children where they were already talking and working.

40. Mr. Roy set out several measures that would help children gain access to justice and increase the effectiveness and fairness of justice systems. They included increasing the minimum age of criminal offences and abolishing status offences; eliminating inhuman sentencing, such as the death penalty, life imprisonment, solitary confinement and the beating of children in the criminal justice system; increasing the range of non-custodial sentences and developing restorative-based justice; strengthening independent monitoring mechanisms; and investing in rehabilitation and reintegration programmes.

41. Mr. Bengaly discussed the role of informal and traditional justice, and the difficulty of reconciling social and cultural traditions with the fundamental principles contained in international instruments. In this respect, he referred to the importance of raising awareness among community leaders and traditional communicators who were involved in seeking solutions for children. Mediation and conciliation should be the priority, and restorative justice was vital to ensure that the child could reintegrate into his or her family and community. Mr. Bengaly recognized the need to strengthen legal and judicial aid to ensure access to justice, and the importance of capacity-building for all stakeholders to create a protective environment for children.

42. Ms. Derain acknowledged the problem of data collection, noting that it was unclear in France how many children were involved in divorce proceedings, or how many of them were interviewed by a judge. Children should be aware of their right to speak to a judge and to raise any issue they wished. She proposed that when children were involved in court proceedings, special brochures and child-friendly materials

should be made available. Ms. Derain referred to the provision of ad hoc administrators for children as legal guardian in legal proceedings, and called for a clarification of their tasks and a greater awareness of their role, as they could be true representatives of children and defenders of their interests, particularly when children's interests were in conflict with those of their parents.

43. Ms. Derain outlined the responses of children to a consultation regarding access to justice, in which children stressed their need to be protected, heard and heeded. Respondents pronounced a great deal of trust in judges and the people who help them. She concluded by emphasizing her view that the question of heeding children's voices was a question of the ability of children to change their situation. It was the responsibility of the justice system, but also of all adults, to ensure that they could speak out.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the high-level panel discussion on the question of the death penalty

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council decision 22/117. It provides a summary of the high-level discussion on the question of the death penalty held on 5 March 2014 at the twenty-fifth session of the Council. The aim of the panel discussion was (a) the exchange of views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions and (b) the exchange of views relating to national debates on or processes for the abolition of the death penalty.

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I. Introduction

1. Pursuant to its decision 22/117, the Human Rights Council held a high-level panel discussion on the question of the death penalty on 5 March 2014, at its twenty-fifth session. The aim of the panel discussion was (a) the exchange of views on advances, best practices and challenges relating to the abolition of the death penalty and to the introduction of a moratorium on executions and (b) the exchange of views relating to national debates on or processes for the abolition of the death penalty.

2. The panel discussion was chaired by Baudelaire Ndong Ella, President of the Human Rights Council, and moderated by Nicolas Niemtchinow, Permanent Representative of France to the United Nations Office and other international organizations in Geneva. The Secretary-General of the United Nations sent a video message. The United Nations High Commissioner for Human Rights delivered an opening statement. The panellists were: Valentin Djenontin-Agossou, Minister of Justice, Human Rights and Legislation of Benin; Khadija Rouissi, Vice-President of the National Parliament of Morocco; Kirk Bloodsworth, Director of Advocacy, Witness to Innocence; and Asma Jahangir, Commissioner, International Commission against the Death Penalty, and former Special Rapporteur on extrajudicial, summary or arbitrary executions.

3. The present summary was prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council decision 22/117, in which the Council requested the Office to prepare a report on the panel discussion in the form of a summary.

II. Video message of the Secretary-General of the United Nations

4. In his video message, the Secretary-General said that, in 2007, the General Assembly had taken a significant step towards the abolition of capital punishment when it had called in resolution 62/149 for a worldwide moratorium on the death penalty. Since the adoption of that landmark resolution, the trend against capital punishment had become stronger and was evident in every region and across all legal systems, traditions and religions. Around 160 countries had either abolished the death penalty or no longer practised it.

5. The Secretary-General emphasized that the taking of life was too irreversible for one human being to inflict it on another. In countries that allowed capital punishment, there remained too many cases of people being put to death despite legitimate questions about their guilt, or in hasty circumstances in which international standards regarding due process were not adhered to. He also argued that the death penalty was unjust and incompatible with fundamental human rights.

6. The Secretary-General called on States that had not yet done so to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. It was his sincere hope to see many ratifications, as the international community would mark the Protocol's twenty-fifth anniversary at an event to be held in New York later in 2014.

III. Opening statement of the United Nations High Commissioner for Human Rights

7. In her opening statement, the United Nations High Commissioner for Human Rights declared that she opposed the death penalty in all circumstances, and urged those States that still retained that punishment to abolish it. The High Commissioner acknowledged the accelerating progress made towards abolition since the adoption in 1948 of the Universal Declaration of Human Rights, which had asserted the human right to life. She noted that back then, 66 years previously, only 14 countries had abolished the death penalty, the majority of them in South America. Eighteen years later, at the time of the adoption of the International Covenant on Civil and Political Rights in 1966, there had still only been 26 abolitionist countries. In the face of such resistance, the drafters of the Covenant had been able to do little more than restrict the scope of the death penalty. Nevertheless, that had not been meant to justify the continuing use of the death penalty. In that regard, she referred to article 6, paragraph 6, of the Covenant, which stated: "Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant." She also noted that the adoption of the Covenant's Second Optional Protocol in 1989 had given abolition a decisive new momentum. While welcoming the most recent moratoriums, the High Commissioner deplored the fact that approximately 20 States still continued to execute people, often in direct violation of international human rights standards.

8. The High Commissioner outlined several reasons why the death penalty should be abolished. First, the death penalty was not reconcilable with human rights, starting with the right to life. She pointed out that many countries whose people had been the victims of the most heinous crimes and violations had abolished the death penalty or did not use it. Those countries were pursuing justice but respected the right to life, a right that could not be negated by the thirst for vengeance. She also noted that the death penalty was cruel, inhumane and degrading, either per se or as applied. Furthermore, the application of the death penalty often violated the right to equality and non-discrimination. The decision whether to sentence a convict to death or to lesser punishment was often arbitrary, disproportionate and devoid of predictable rational criteria. In that "judicial lottery", the odds were often stacked against the poor and against minorities and other common targets of discrimination. The second reason why the death penalty should be abolished was its finality. Even the most developed, well-functioning and robust legal systems, and those with multiple judicial safeguards, had, in many instances, put to death individuals who subsequently had been proved to be innocent. A third strong reason for abolishing the death penalty was the lack of merit of the common assertion that it had a deterrent effect. There was no evidence that the death penalty deterred crime any more than other forms of punishment.

9. The abolition of the death penalty often came into effect after a period of difficult national debate. To make sure that such debates were effective, transparent and fully reflective of the collective will, it was vitally important that the public be provided with balanced information and accurate statistics that covered all aspects of the discussion on criminality and described various effective ways, short of the death sentence, to combat it. With regard to arguments that abolishing the death penalty would go against the sentiments of the public, the High Commissioner emphasized that human progress did not stand still, and that popular support for the death penalty at a given moment did not imply that such support would persist in the future. She referred to undisputed historical precedents where laws, policies and practices inconsistent with human rights standards had had the support of a majority of the people; but had eventually been abolished or banned. She urged all States that still retained the death penalty to introduce a moratorium on it as a first step. She also emphasized that States should go beyond simply ceasing executions. They should aim for a

suspension of capital punishment for all who might be, or had been, sentenced to it; prosecutors should no longer seek the death penalty and judges should not impose it. That could be done, for example, through a directive from the highest judicial body. She further highlighted the importance of the right to seek pardon or commutation. In that regard, she welcomed the recent presidential decision in Myanmar to commute all death sentences to a lesser punishment, and recent decisions by the Supreme Court of India to commute to life imprisonment the death sentences of several individuals and to introduce guidelines safeguarding the rights of people on death row. The High Commissioner hoped that those initiatives would lead to the full abolition of the death penalty in those countries. She also urged the Human Rights Council to continue discussing and advancing the universal abolition of the death penalty, and engaging States and other stakeholders in a dialogue on the matter. Finally, she called upon the Council to consider commissioning a comprehensive legal study to help facilitate the emergence of an international customary norm prohibiting the use of the death penalty under all circumstances.

IV. Contributions of the panellists

10. Mr. Ndong Ella introduced the high-level panel discussion. He noted that the Council had convened the panel recognizing the importance for States to hold debates on the question of the death penalty.

11. In his introductory remarks as moderator of the panel, Mr. Niemtchinow said that the death penalty was primarily a matter of human rights and was not a punishment comparable with any other punishment. The death penalty was a denial of the right to life and, therefore, was a violation of human rights. The high-level panel discussion was relevant and timely, as in a few months, during its sixty-ninth session, the General Assembly of the United Nations would discuss a draft resolution on renewing the call for a moratorium on the death penalty, with the aim of its universal abolition. The adoption by the General Assembly every two years of a resolution on a moratorium confirmed that the majority of Member States supported the establishment of a universal moratorium. Global awareness concerning the universal abolition of the death penalty was visible in all continents. He noted that the Government of France had launched a global campaign to abolish the death penalty.

12. Mr. Djenontin-Agossou recalled that every human being had an inherent right to life and no one should be deprived of that right. Benin had ratified the International Covenant on Civil and Political Rights, as well as other relevant instruments, such as those on the rights of the child and against torture; and its Constitution established that the human being was sacred. He recalled the international context relating to the death penalty and that, since 2007, the General Assembly had adopted a number of resolutions calling for a moratorium on the execution of death sentences. In November 2008, the African Commission on Human and Peoples' Rights had adopted a resolution in which it had recommended that States parties to the African Charter on Human and Peoples' Rights uphold the moratorium. He noted that, in 2012, Benin had co-sponsored and supported General Assembly resolution 67/176 on a moratorium on the use of the death penalty.

13. With regard to the abolition of the death penalty in Benin, Mr. Djenontin-Agossou explained that in 2004, with the approval of the President of the country and with the support of civil society organizations, the Human Rights Unit of the Ministry of Justice, Human Rights and Legislation had established an advisory body to advance the abolition of the death penalty. The Advisory Body had investigated various issues regarding the use of the death penalty. Subsequently, the Government of Benin had announced at various international forums that it would abolish the death penalty. For instance, during the universal periodic review by the Human Rights Council held in 2008, Benin had committed

itself to continuing its efforts to completely abolish the death penalty and to considering ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights. In August 2011, the National Assembly of Benin had voted to abolish the death penalty; and in July 2012, Benin had acceded to the Second Optional Protocol. In December 2012, the National Assembly had repealed the death penalty provisions contained in the Code of Criminal Procedure. Currently, the Assembly was carrying out a revision of the Penal Code to remove all the death penalty provisions.

14. Mr. Djenontin-Agossou also said that in July 2014 Benin would be organizing the first African conference on a universal moratorium on the use of the death penalty and its abolition. He invited States to work towards abolition, noting that the death penalty did not constitute an effective solution for eradicating criminality, was not compatible with the right to life and posed unacceptable risks of judicial error.

15. Ms. Khadija Rouissi said that there was growing consensus for the abolition of the death sentence in many States in the Middle East and North Africa. However, only five countries out of 19 in the region had a de facto moratorium, and the region had the highest level of executions per capita. In addition, a large number of death row prisoners in the region were facing torture and other inhuman and cruel punishment, even in countries that maintained de facto moratoriums on the use of the death penalty.

16. With regard to the situation in Morocco, Ms. Rouissi said that, while no execution had been carried out since 1993, judges continued to impose the death penalty. In 2005, the Equity and Reconciliation Commission had been established in Morocco in order to investigate past gross human rights violations. The Commission had recommended, inter alia, that the death penalty be abolished in Morocco. Subsequently, that recommendation had received the approval of the Head of State. A new Constitution, adopted in 2011, enshrined the right to life and gave an important place to human rights. Ms. Rouissi also informed the panel that a network of parliamentarians who were against the death penalty was putting forward legislative proposals towards abolition and would continue to work towards the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights. That network was campaigning to support the forthcoming General Assembly resolution on a moratorium and to improve the conditions of death row prisoners. A similar network of parliamentarians had been established in Jordan. Such networks should be established in other parts of the region in order to advance the abolition of the death penalty. The death penalty was the most institutionalized attack on the right to life and abolition constituted a prelude to any serious penal reform.

17. Mr. Bloodsworth said that the capital punishment system of the United States of America was ineffective, wrong and did not work. He knew that from first-hand experience: he was the first person in the United States to have been exonerated from a capital conviction through DNA testing. He had spent 8 years, 10 months and 19 days in prison, including two years on death row, for a crime he had not committed. In 1984, he had been arrested for the murder of a young girl in the State of Maryland. Because of the shocking character of the crime, the police had been understandably eager to find the young girl's killer and ease the community's fear. When the police department had found two boys who had seen the suspect, the officers had drafted a composite sketch of the man they were looking for. Despite the fact that he did not fit any of the characteristics as described by the two boys, an anonymous caller had suggested his name to the police department. In a police line-up, he had been identified as the last man to be seen with the victim. Everybody in the State of Maryland had believed he was guilty. Five persons had positively identified him. Two juries had said they had the right man. In the end, that identification was proved wrong. Referring to his own experience, Mr. Bloodsworth emphasized that eyewitness misidentification was widely recognized as one of the leading causes of wrongful conviction in the United States. Since 1989, DNA evidence had been used to exonerate

over 300 individuals. Approximately 75 per cent of those cases had involved inaccurate or faulty eyewitness identification.

18. Mr. Bloodsworth discussed other faulty procedures that played a role in wrongful conviction, including the interview process, witness examination, the jury system and physical evidence in criminal cases. He described his ordeal at the Maryland State Penitentiary, where he had lived in a cell in which he could only take three steps from the back wall to the front door; and which was directly under the gas chamber where executions took place. Mr. Bloodsworth told of his efforts to have the death penalty abolished in the United States and to campaign for important reforms to the criminal justice system, such as the Innocence Protection Act of 2003, which included post-conviction DNA testing provisions and ensured the availability of federal funds to states for DNA testing of prisoners who claimed their innocence. In 2012 the State of Maryland had become the eighteenth state to repeal the death penalty in the United States. He emphasized that it was the message of innocence that had made that abolition possible.

19. Ms. Jahangir discussed the position with regard to the use of the death penalty in Asia. She informed the panel that Asia presented a challenge to the death penalty abolitionist movement. The vast majority of executions were carried out in Asia and thousands were under sentence of death there. In 2013, at least 10 countries in Asia had reportedly carried out executions. Because of the secrecy of the death penalty in several countries, the exact number of executions was difficult to obtain. A lack of transparency left the people in those countries without information and prevented debates around that important issue. She emphasized that, in many countries in the region, the death penalty was often imposed after a grossly unfair trial. Even when trials respected international standards of fairness, the risk of innocent people being executed could never be fully eliminated. That was especially worrying, as many criminal legal systems in retentionist countries in Asia were not strong enough to ensure justice and yet retained that irreversible punishment. She noted that crime rates might be reduced by the introduction of better training, human rights education, including for police officers and lawyers, measures to eradicate poverty and programmes to improve general educational attainment, among other measures. She stated that there was no convincing evidence that the death penalty deterred crimes more effectively than other punishments. She also expressed concern that a disproportionate number of individuals on death row in retentionist countries in Asia were from marginalized sections of society.

20. Ms. Jahangir discussed the situation of non-citizens, who were disproportionately affected by the use of the death penalty in the Asian region. Hundreds of migrant workers from supplying nations in Asia were facing the death penalty in other countries. That had led countries which still retained capital punishment, such as India, Indonesia, Pakistan and Sri Lanka, to work through diplomatic and other channels to ensure the release of their nationals abroad who were under sentences of death. With regard to positive developments in Asia, Ms. Jahangir said that some Asian countries, including Bhutan, Cambodia, Nepal, the Philippines and Timor-Leste, had abolished the death penalty for all crimes. Brunei Darussalam, the Lao People's Democratic Republic, Maldives, Mongolia, Myanmar, the Republic of Korea, Sri Lanka and Thailand had not carried out executions for several years. In Pakistan, the current administration continued to apply a de facto moratorium on the death penalty that had been in place since 2008, except for the execution of a soldier in 2012. She also said that some Asian countries had taken positive steps, including official announcements of a presidential pardon or commutation and court rulings that indicated a gradual reduction in the scope of capital punishment. Some States were currently studying the possibility of abolishing the death penalty. In October 2013, during its second universal periodic review, China had announced that it was reducing the application of the death penalty by taking a series of important measures, including reducing the number of capital crimes, strengthening the role of defence lawyers, ensuring that suspects in capital cases

were represented by a lawyer, and excluding the use of confessions extracted through torture. In Singapore, courts were currently provided with the discretion not to impose the death penalty for certain categories of offence, such as drug trafficking offences and some homicide offences. That had followed the adoption by the Parliament in November 2012 of legislative amendments abolishing the mandatory imposition of the death penalty under certain circumstances. Ms. Jahangir also emphasized that every country in Asia that still retained the death penalty would adopt its own particular path to end the practice. Leaders, parliaments, judges, civil society organizations, the media and academic institutions had to be convinced of the need for the abolition of capital punishment.

V. Summary of the interactive discussion

21. During the interactive discussion, representatives of the following countries and organizations spoke: Australia, Austria, Belgium, Brazil (on behalf of the Portuguese-speaking countries), China, the Council of Europe, the European Union, France, Indonesia, Ireland, Italy, Kuwait (on behalf of the Gulf Cooperation Council), Mexico, Mongolia, Morocco, Namibia, New Zealand, Rwanda, Saudi Arabia, Sierra Leone, Singapore (on behalf of a group of 26 countries), Slovenia, Spain, the Sudan and Switzerland (on behalf of 44 countries). Statements by the following delegations were not delivered owing to lack of time: Albania, Algeria, Belarus, Chile, Cuba, Germany, Iraq, Kyrgyzstan, Portugal, the Republic of Moldova and Turkey.

22. Representatives of the following non-governmental organizations also spoke: Amnesty International, Harm Reduction International (on behalf of Reprieve, Human Rights Watch and the World Coalition Against the Death Penalty), International Federation of Human Rights Leagues, International Organization for the Elimination of All Forms of Racial Discrimination, Penal Reform International and Verein Suedwind Entwicklungspolitik.

23. Delegates welcomed the convening and organization of the high-level panel discussion. They viewed the panel as a useful platform for discussing good practices and sharing experiences relating to the abolition of the death penalty and to the introduction of a moratorium on executions.

A. General remarks on the use of the death penalty

24. A large number of delegations expressed their opposition to the death penalty and firmly supported its universal abolition. In that regard, they welcomed the developments noted in the Secretary-General's most recent report on the question of the death penalty (A/HRC/24/18) suggesting that the trend towards abolition was continuing. Some delegations stated that there was a clear trend towards its elimination. They were convinced that the question of the death penalty was about human rights and that justice that killed was not justice. They further highlighted that the strong link between the death penalty and human rights was acknowledged even in the constitutions of some retentionist countries, which stated that no person should be deprived of the right to life except in execution of a sentence.

25. Some States emphasized that the death penalty violated the right to life, the basis of all rights, and that it undermined the right to dignity inherent to all human beings. Some expressed concerns that the imposition of the death penalty constituted torture, as recently stated by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and that it was an inhumane form of punishment, constituting a serious violation of human rights. It was pointed out that that was clearly the case for brutal

methods of execution, such as stoning and decapitation, which inflicted unbearable pain. More common execution techniques, such as electrocution or shooting, might well constitute inhuman or degrading treatment and therefore be in contravention of international law. It was also underlined that the margin of error in the application of the death penalty was too large.

26. Some delegations emphasized that the death penalty was not only morally wrong, but was also an ineffective deterrent. They also stated that there must not be any impunity for crimes, but that there was no clear evidence regarding the effectiveness of the death penalty in combating impunity. They observed that the death penalty had never been proved to be a more effective deterrent than other forms of punishment. Justice and fairness were never advanced by the taking of a human life. In that context, it was also observed that the leaders of several States which had recently abolished or introduced a moratorium on the death penalty had cited, among the reasons for their decision, the absence of credible evidence that the death penalty deterred crime. It was further emphasized that the application of the death penalty was irreversible and irreparable, and that a State did not need to take lives in order to defend itself.

27. Some delegations stated that the death penalty had no place in democratic societies, They stressed that building a society free from the death penalty should be at the core of all judicial actions, and that application of the death penalty did not repair the harm done to victims and their families. They also stated that the abolition of the death penalty contributed to the progressive strengthening of human rights around the world. Some delegations discussed how the abolition of the death penalty contributed to State-building efforts. For example, in Ireland, the moratorium on the use of the death penalty had remained in place until abolition in 1991, even in the face of grave threats to the State and the people; that refuted the claim that the death penalty was needed in the fight against terrorism. In Rwanda, the abolition of the death penalty had been a step forward in the reconciliation process.

28. A group of States, in a joint statement,[1] expressed the view that the simplistic approach of characterizing the death penalty as a human rights issue in the context of the right to life of the convicted prisoner was deeply flawed and controversial. The group considered that the death penalty was first and foremost an issue of the criminal justice system and an important deterring element vis-à-vis the most serious crimes. Some delegations stated that capital punishment was a sensitive issue since countries had different opinions because of varying cultural and intellectual frameworks and the absence of international agreement on the subject. A few retentionist States observed that the purpose of the use of the death penalty was not revenge, but to ensure retribution and provide justice to victims. Some stated that the retention of the death penalty was a prudent choice made in accordance with international law and the people's demand for justice. They also mentioned the existence of strict controls over the application of the death penalty.

B. Implementation of international human rights standards and safeguards

29. Several delegations emphasized that States that continued to apply the death penalty must guarantee the protection that was set out in international instruments, including the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. In that regard, some delegations highlighted the fact that article 6, paragraph 2, of

[1] See A/HRC/25/G/16 for the full text of the joint statement.

the Covenant required that States that continued to apply the death penalty should impose that sentence only for the most serious crimes.

30. Several delegations expressed concern with regard to the imposition of the death penalty in violation of international human rights standards. In particular, they expressed concern with regard to: the application of the death penalty in an arbitrary manner and in secrecy; the mandatory nature of the death penalty in some States; the inhuman and degrading detention conditions of death row prisoners; the use of unregulated substances in the formulae of lethal injections; public executions; the increase in the number of executions in certain countries; the expansion of the range of categories of crime to which the death penalty could apply; the use of the death penalty against children, persons with disabilities and other vulnerable groups; the resumption of executions after decades of a de facto moratorium; and withdrawal from international safeguards aimed at preventing miscarriages of justice. Some delegations also highlighted the need to discuss the difficulties and other related issues regarding executions, including social and economic implications of such punishment. They urged States to acknowledge the negative impact on children of their parents being sentenced to death or executed.

31. Several delegations expressed concern that a number of countries continued to apply the death penalty at an alarming rate. For instance, it was noted that, since the beginning of 2014, 155 people, including several minors, had reportedly been executed in the Islamic Republic of Iran. However, only 84 of those executions had been officially confirmed. It was also noted that the Islamic Republic of Iran continued to apply the death penalty for crimes, including drug-related crimes and sexual offences, that did not meet the criteria of "most serious crimes". In Iraq, 170 people had reportedly been executed in 2013, making the country one of the top three executors in the world. The majority of those executions had reportedly been carried out under the pretext of fighting terrorism, on the basis of the 2005 anti-terrorism law, which provided capital punishment for a multitude of unclear crimes.

32. Several delegations expressed concern that some retentionist States had expanded the categories of crime for which the death penalty might, or in some cases must, apply, and that several States did not restrict the use of the death penalty to the most serious crimes. In particular, in some countries the majority of death sentences handed down and executions carried out were for drug-related offences. It was also emphasized that international aid and United Nations assistance for drug enforcement in those countries lent legitimacy to the use of the death penalty for drug-related offences. It had been demonstrated that, since 2008, international assistance had contributed to the arrest, prosecution and subsequent sentencing to death of named drug suspects; the United Nations agency concerned had been called upon to take responsibility for its actions, but no real changes had been noticed. It was further noted, however, that donors had begun taking notice and had reportedly removed funding from drug enforcement programmes in certain cases. It was recommended that much needed funding be redirected to other efforts in those countries, and that donors freeze all financial support pending an investigation into how funding had been spent and until after the establishment of clear mechanisms for risk assessment and accountability.

33. With regard to the detention conditions of death row prisoners, it was noted that, whereas they were entitled to the same basic treatment as other categories of prisoners, in reality their detention conditions were frequently worse. They usually experienced: restrictions or total bans on visits from and correspondence with lawyers and family members; small cell size; lack of proper food; extreme temperatures; lack of ventilation; cells infested with insects; inactivity and inadequate time outside cells; isolation for long and indeterminate periods; and violence from other prisoners and prison officials. It was also emphasized that some or all of those conditions could contribute to the "death row phenomenon" that had been found to constitute inhuman and degrading punishment and

which resulted from spending long periods of time in restrictive conditions while awaiting death. Such problems remained when States had put in place a moratorium on the death penalty or had abolished the death penalty, unless the sentences of those convicted prior to abolition had been commuted. It was also emphasized that detention conditions should be based on individual risk assessments, sentences handed down before abolition should be commuted.

C. Abolition processes: national experiences and lessons learned

34. Several delegations shared their national experiences and lessons learned regarding the abolition process. For instance, Namibia had abolished the death penalty in 1990. Article 6 of its Constitution provided: "The right to life shall be respected and protected. No executions shall take place in Namibia." That provision was non-derogable.

35. In Ireland, a de facto moratorium had been in place from 1954 until 1990. The movement towards abolition had coincided in large part with the conflict in Northern Ireland. The death penalty had been abolished in 1990. In 2001, a proposal to amend the Constitution of Ireland to prohibit the death penalty had been supported by 62 per cent of the votes cast.

36. Rwanda had abolished the death penalty in 2008, 14 years after the 1994 genocide that had claimed the lives of over one million people. It had by no means been an easy task: the pain and desire for justice felt by the families of genocide victims and survivors were understandable and could not be ignored. The Rwandan people had taken the view that the death penalty could never serve as an instrument of justice, even in the case of the most heinous crimes imaginable. It was emphasized that the abolition of the death penalty had proved to be a significant step forward in the process of reconciliation in Rwanda.

37. In France, after heated debates, abolition had been achieved in 1981 owing to the political courage of a few men. Three decades later, experience in France showed that the abolition of the death penalty had no bearing on crime rates and abolition had become part of the French heritage. The key lessons of the French experience were: the abolition process must be preceded by awareness-raising; key political figures must have the courage and determination to defend their ideas; and the focus should be on fundamental collective political gains.

38. In 1988, Kyrgyzstan had introduced a moratorium on executions. Since its independence, it had opted for the gradual elimination of the death penalty. The term of the moratorium was extended in 2005 until full abolition by legislation. Eventually, the death penalty was abolished under the Constitution of the Kyrgyz Republic in 2006.

39. Some delegations shared with the panel their ongoing efforts towards full abolition of the death penalty. For instance, in Mongolia, a moratorium on the death penalty had been declared by the President in 2010. That had been followed by accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights. Mongolia was currently undertaking step-by-step measures to abolish the death penalty both in law and in practice by introducing amendments to existing legislation. The current draft law on crimes proposed life imprisonment as the harshest punishment, a penalty which was open for reconsideration after 20 years of imprisonment. Morocco had been a de facto abolitionist country and had engaged in a fruitful national dialogue on whether or not to maintain the death penalty in domestic legislation. Morocco had adopted a policy of transparency regarding the death penalty and was committed to continuing the debate on the issue.

40. Some retentionist countries discussed domestic processes for restricting the use of the death penalty. For instance, China had adopted a policy of gradual abolition of the death

penalty. In 2011, it had abolished the death penalty for 15 crimes; and the death penalty was not applied to (a) children who committed crimes below the age of 18, (b) pregnant women and (c) elderly people aged 75 years and above. In Indonesia, the issue of the death penalty had been the subject of a robust national debate among various groups. The issue had undergone a judicial review by the Constitutional Court in 2007. In line with article 6 of the International Covenant on Civil and Political Rights, Indonesia strived to ensure that strong safeguards were in place.

41. Some delegations highlighted the importance of the establishment of a moratorium on the use of the death penalty while national debates on abolition were ongoing. A moratorium on executions gave the authorities the opportunity to: review death penalty legislation; ensure that domestic law complied with international human rights law, especially regarding the duty to ensure a fair trial; review claims of wrongful conviction; engage in an informed debate with experts and the public; and realize that the death penalty was not a special deterrent to crime.

D. Importance of public debate, awareness and exchange of information

42. It was noted that the majority of retentionist countries justified the use of the death penalty on the basis of their domestic public opinion. In that context, supporting the remarks of several panellists, several delegations highlighted the fact that capital punishment had been abolished in their countries following debates and exchanges of ideas that had resulted in slow changes in mentalities. It was emphasized that, in the absence of objective information, the public might be reluctant to accept and support abolition efforts. It was therefore of paramount importance that countries that still applied the death penalty ensured that studies and statistics regarding its use were made publicly available, so that public discussion and evaluation of its use could be promoted and a moratorium established. The public should not be deprived of objective and transparent information on the issue and its effects on society.

43. Some delegations emphasized the need for continued education on and public awareness of the importance of the abolition of the death penalty. They highlighted the fact that, in abolitionist countries, there was a constant need to spell out why the death penalty ran contrary to the right to life and to human dignity. Vigilance was required, since some political parties even in abolitionist States had put the restoration of the death penalty on their programmes. Such developments clearly marked the need for long-term action against the death penalty and for efforts to transmit valuable experience, training and assistance to third countries in carrying out public debates and swaying public opinion.

44. Some delegations said that if the history of the abolition of the death penalty in their countries had taught them anything, it was that the path towards abolition was long and hard. The death penalty was not abolished or repealed overnight. Abolition became a reality only as a result of increasing public awareness and constant collective efforts. In that regard, the importance of informed debate and the fluid exchange of ideas was highlighted.

45. Some delegations pointed out that national debates on the abolition of the death penalty were currently under way in their countries. For example, there were ongoing active debates in Indonesia on the use of the death penalty. In Sierra Leone, which had had a moratorium since 1998, a regional conference had been organized early in 2014 to address the question of the death penalty. The current constitutional review process in Sierra Leone also provided an opportunity to debate the issue.

46. It was emphasized that there was a need to reach out to the judiciary to make sure it understood the true implications of sentencing decisions, and the lack of evidence that the death penalty had a deterrent effect in comparison with other non-lethal punishments.

E. Regional, multilateral and intergovernmental efforts to advance the abolition of the death penalty

47. Several delegations highlighted the importance of regional and multilateral organizations' efforts to advance the abolition of the death penalty, and expressed their readiness to enhance such international cooperation towards abolition. In particular, it was emphasized that countries in the same region had closer historical, social and cultural ties. For that reason, initiatives taken at the regional and multilateral levels were more likely to be accepted and understood by countries in the same geographical area. Delegates provided examples of such regional and multilateral efforts.

48. It was recalled that the European Union held a strong and principled position against the death penalty. Article 2 of the Charter of Fundamental Rights of the European Union provided that no one should be condemned to the death penalty, or executed. The abolition of the death penalty was also a main objective of the European Union external human rights policy, as outlined in the European Guidelines on the Death Penalty, adopted in 1998 and revised in April 2013. The EU commitments for the universal abolition of the death penalty included: targeted campaigns on the death penalty and intensive engagement with retentionist countries; and active contribution, together with broad interregional groups of States, to the adoption by the United Nations General Assembly of resolutions on a moratorium on the use of the death penalty. Since 2007, the European Union had also provided financial support to civil society organizations for actions and projects aimed at promoting restrictions in the use of the death penalty, and its abolition, or the establishment of a moratorium. The European Union had also adopted rules prohibiting trade in goods used to carry out executions, as well as technical assistance related to such goods.

49. It was noted that the Council of Europe had made abolition of the death penalty a prerequisite for membership. As a result, in the previous 16 years, no death sentences had been carried out in its 47 member States. Instruments adopted by the Council on the abolition of the death penalty included Protocol No. 6 to the European Convention on Human Rights, which prohibited the death penalty in times of peace, and Protocol No. 13, which prohibited it in all circumstances. Furthermore, in 2013, a joint call for the abolition of the death penalty had been launched in Strasbourg, France, by 42 member States[2] of the Council on the occasion of the World Day against the Death Penalty, in which they reiterated that the abolition of the death penalty in many African, American and Asian States exemplified the universal character of that fight. It also demonstrated the need for a strong political signal, as well as for the participation of the whole of society in those efforts. Furthermore, some delegations noted that the European Court of Human Rights had acted as a catalyst for that regional trend. Recently, the Court had ruled that exposure to the fear of execution was as much a violation of the European Convention on Human Rights as execution itself.

50. It was stated that the Community of Portuguese-Speaking Countries was firmly convinced that the abolition of the death penalty decisively contributed to the reinforcement of security and the continuous development and consolidation of human rights. In 2003, the Council of Ministers of the Community had adopted a resolution on human rights and the abolition of the death penalty which expressed the commitment of the Community and its

[2] Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, the Netherlands, Norway, Portugal, the Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland (later joined by two more States).

members to deploying every effort towards the universal abolition of the death penalty and other cruel, inhuman or degrading treatment or punishment. That commitment had been renewed in 2013 through the adoption of a resolution on the promotion and protection of human rights in the Community.

51. It was highlighted that, since the adoption of resolution 42 by the African Commission on Human and Peoples' Rights in 1999, a number of African States had continued to advocate a moratorium on the death penalty through their support for the Commission's Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary Killings in Africa and General Assembly resolution 67/176 on a moratorium on the use of the death penalty, and through calls for ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights. In that context, discussions had begun towards the development of an additional protocol to the African Charter on Human and Peoples' Rights on the abolition of the death penalty in Africa.

52. The importance of the International Commission against the Death Penalty was also highlighted. The establishment of the Commission in 2010 had been a multilateral initiative led by Spain. Its cross-regional composition and the international prestige of its members were of great value to the campaign for worldwide abolition. In particular, members could speak directly to the authorities of States that were facing challenges in the abolition of the death penalty. The Commission was currently supported by 18 countries representing all regions of the world.

F. Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights

53. Several delegations stressed the importance of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and called for its ratification. As of March 2014, the Protocol had been ratified by 78 States. It was emphasized that increased ratification of or accession to that Protocol was needed to advance the universal abolition of the death penalty.

VI. Conclusion

54. **In their concluding remarks, the panellists emphasized that the international community had a responsibility to move universal abolition of the death penalty forward. Discussions on the death penalty should continue at both the national and international levels. Such discussions should include voices from all parts of society, including the innocent people who had suffered wrongful convictions. Experiences of national, regional and international abolition efforts should also be shared.**

55. **States should intensify the campaign to sensitize all actors at every level, including the policy and grass-roots levels, so that more countries would support universal abolition. In that regard, commissioning research and studies on the prohibition of the use of the death penalty as a customary norm and on the human rights impact of the use of the death penalty could be considered. More transparent debates between States were also needed, in close cooperation with civil society and other actors, including parliamentarians.**

56. **States that had not yet abolished the death penalty should introduce moratoriums on executions with the aim of abolishing them. Those States which still continued to implement the death penalty must ensure the protection of the human rights of those facing the death penalty, pursuant to the relevant international norms and standards.**

57. **Supporting the views of States, regional organizations and non-governmental organizations, the panellists recommended that States and all other stakeholders must redouble their efforts to secure an increased number of ratifications of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, which was the only international instrument that prohibited executions and provided an essential legal framework for securing the worldwide abolition of the death penalty.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Consolidated report of the Secretary-General and the United Nations High Commissioner for Human Rights on the right to development

Summary

The present report contains a brief overview of the activities of the Office of the United Nations High Commissioner for Human Rights and United Nations human rights mechanisms relating to the promotion and protection of the realization of the right to development. It covers the period from May 2013 to April 2014 and complements the report of the Secretary-General and the High Commissioner on the right to development submitted to the Human Rights Council at its twenty-fourth session (A/HRC/24/27).

The activities included support for relevant Council mechanisms, as well as events and initiatives in the areas of inter-agency coordination and mainstreaming of the right to development into the policies and programmes of international organizations and into the post-2015 development agenda.

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I. Introduction

1. In its resolution 48/141, in which the General Assembly established the post of United Nations High Commissioner for Human Rights, the Assembly directed the High Commissioner to promote and protect the realization of the right to development and to enhance support from relevant bodies of the United Nations system for this purpose. It also directed the High Commissioner to recognize the importance of promoting a balanced and sustainable development for all people and of ensuring realization of the right to development, as established in the Declaration on the Right to Development.

2. The Human Rights Council, in its resolution 24/4, requested the Office of the High Commissioner to continue to submit to the Council an annual report on its activities, including inter-agency coordination within the United Nations system with regard to the promotion and realization of the right to development.

3. In its resolution 68/158, the General Assembly requested the High Commissioner, in mainstreaming the right to development, to undertake effectively activities aimed at strengthening the global partnership for development among Member States, development agencies and the international development, financial and trade institutions, and to reflect those activities in detail in her next report to the Human Rights Council.

4. Also in resolution 68/158, the General Assembly requested the Secretary-General to submit a report to the Assembly for consideration at its sixty-ninth session, and an interim report to the Human Rights Council on the implementation of resolution 68/158, including efforts undertaken at the national, regional and international levels in the promotion and realization of the right to development.

5. The present report is submitted in accordance with the above requests and provides information on the activities undertaken by the Office of the High Commissioner (OHCHR) and United Nations human rights mechanisms during the period from May 2013 to April 2014.

II. Operational framework for promoting and protecting the realization of the right to development

6. In implementing its mandate to promote and protect the realization of the right to development, OHCHR is guided by the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, and relevant resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council.

7. The Declaration on the Right to Development, in its article 1, states that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

8. The right to development is a human right on an equal footing with all other human rights. The recognition that every human person and all peoples are entitled to a development process in which all human rights can be realized fully is at the core of the human rights-based approach to development.

9. The strategic framework for the period 2014–2015[1] sets an objective to contribute to the effective realization of the right to development as a means to advance the promotion and protection of the effective enjoyment of all human rights by all.

10. In this regard, OHCHR seeks in particular:

(a) To integrate the promotion and protection of the right to development into global partnerships for development and, as appropriate, in the policies and operational activities of relevant actors at all levels;

(b) To promote and protect the realization of the right to development;

(c) To enhance awareness, knowledge and understanding of the right to development at all levels.

11. OHCHR has adopted a multidimensional strategy to support the implementation of the right to development, which focuses on:

(a) Ensuring the realization of the right to development throughout the human rights programme and by the relevant bodies of the United Nations system through strengthened and effective evaluation and monitoring to that end, and taking into account the need for sustainable development;

(b) Enhancing substantive support for the Human Rights Council and its subsidiary mechanisms relating to the right to development, including support for the open-ended intergovernmental Working Group on the Right to Development;

(c) Building stronger partnerships and collaboration with relevant actors, including Member States, multilateral institutions and civil society, including non-governmental organizations, so that support given to human rights bodies relevant to the right to development, as well as funds and specialized agencies, will have increased focus on its practical implementation;

(d) Encouraging the promotion and protection of the right to development in global development partnerships, as reflected in Millennium Development Goal 8 (aid, trade and debt reduction), through advocacy, networking, technical advice and the establishment of partnerships and other kinds of cooperation;

(e) Promoting the implementation of the right to development in technical assistance to requesting States and, taking into account a human rights-based approach, in national development strategies, such as poverty reduction strategy papers, where they exist, national Millennium Development Goals strategies and United Nations development frameworks, through close cooperation with Member States and United Nations agencies, funds and programmes;

(f) Identifying obstacles to the implementation of the right to development at the international, regional and national levels and promoting awareness about the content and importance of that right, including through increased engagement, research, advocacy and informational and educational activities;

(g) Promoting cooperation at the international and regional levels in mainstreaming the right to development, including by undertaking activities aimed at effectively strengthening the global partnership for development among Member States, development agencies and international development, financial and trade institutions.

[1] *A/67/461, annex, approved by the General Assembly in its decision 67/542.*

12. The above strategy is further reflected in the OHCHR Management Plan for the period 2014-2017, in which the right to development is part of the thematic priority "Human rights in development and in the economic sphere".

13. As part of the thematic strategy of the Management Plan, OHCHR seeks:

(a) To integrate human rights into the formulation of and follow-up to the post-2015 development agenda by, inter alia, advocating for a strengthened global partnership for development, and the individual and collective human rights responsibilities of States and other relevant actors, including with regard to the right to development;

(b) To integrate international human rights principles and standards, including the right to development, into finance, trade and investment policies, which requires the mainstreaming of the right to development into global partnerships between Member States, national development agencies, and businesses, and international development, financial and trade institutions;

(c) To integrate human rights standards and principles into common country assessments, United Nations development assistance frameworks, consolidated appeal processes and the work of United Nations agencies, which involves working to bring all human rights principles and standards, including the right to development, into United Nations policies guidelines and training tools related to development programming, through inputs to the work of all relevant inter-agency coordination mechanisms.

III. Activities of the Office of the High Commissioner

14. OHCHR has conducted many activities and initiatives, a full account of which is available on the OHCHR webpage dedicated to the right to development (www.ohchr.org/EN/Issues/Development/Pages/DevelopmentIndex.aspx).

A. Publications

15. With a view to advancing a broader understanding of the right to development, the Office completed its publication entitled *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development*. The publication focuses on the sustained, progressive and incremental steps necessary to protect and promote the realization of the right to development. The book presents a wide range of in-depth analytical studies by more than 30 international experts on the context, meaning and application of the right to development. It illustrates the usefulness of this right as a development paradigm, including in the post-2015 development agenda, and makes the case for reinvigorating it to advance peace and security, human rights and sustainable development. In particular, the forward by the High Commissioner sets out a basic understanding of the right to development.

16. Article 1 of the Declaration on the Right to Development states that the specific entitlement of the right to development is the right "to participate in, contribute to, and enjoy economic, social, cultural and political development". This basic entitlement includes a number of constituent elements, inter alia:

(a) People-centred development: the Declaration identifies "the human person" as the central subject, participant and beneficiary of development;

(b) A human rights-based approach: the Declaration specifically requires that development be carried out in a manner "in which all human rights and fundamental freedoms can be fully realized";

(c) Participation: the Declaration calls for the "active, free and meaningful participation" of people in development;

(d) Equity: the Declaration underlines the need for "the fair distribution of the benefits" of development;

(e) Non-discrimination: the Declaration permits no "distinction as to race, sex, language or religion";

(f) Self-determination: the Declaration integrates self-determination, including full sovereignty over natural resources, as a constituent element of the right to development.

17. Equally explicit are the prescriptions provided by the Declaration for the implementation of this right, inter alia:

(a) The formulation of appropriate national and international development policies;

(b) Effective international cooperation;

(c) Reforms at the national and international levels;

(d) Removal of obstacles to development, inter alia, human rights violations, racism, colonialism, occupation and aggression;

(e) The promotion of peace and disarmament, and the redirecting of savings generated therefrom to development.

18. The book and related publicity materials (including an introductory pamphlet in all official languages of the United Nations) were disseminated and distributed to a broad range of stakeholders. The publication was launched at events on the theme "Realizing a vision for transformative development", which brought together eminent experts, contributing authors, delegations, United Nations agencies, academia, activists, civil society organizations and university students to engage in interactive exchanges, which reinforced the call to revitalize this right in development and governance at all levels.[2]

B. Human rights and the financial crisis

19. In recognition of the devastating impact of the financial and economic crises on human rights worldwide and in an effort to promote awareness of the human rights implications of financial regulation, OHCHR organized two expert meetings on the human rights impact of austerity measures: "Rights in crisis: an expert meeting on rights-based approaches to financial regulation, macroeconomic policies and economic recovery", in April 2013; and "Human rights and the financial crisis in focus: an expert meeting on promoting a rights-based approach to financial regulation and economic recovery", in July 2013. The damage caused by the economic and financial crisis and some of the measures taken to respond to it worldwide point to structural and systemic failures in the predominant development model.[3]

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[2] See alsowww.ohchr.org/EN/Issues/Development/Pages/RealizingaVisionforTransformativeDevelopment.aspx.

[3] See alsowww.ohchr.org/EN/Issues/Development/Pages/PromotingHRbasedfinancialregulationmacroeconomicpolicies.aspx.

20. In May 2013, OHCHR issued a report[4] and subsequently published a booklet[5] on the impact of austerity measures on economic, social and cultural rights, in particular on the right to work and the right to social security, with a specific focus on women, migrants and older persons. The report lays out the criteria that States should apply when considering the adoption of austerity measures:

(a) The existence of a compelling State interest;

(b) The necessity, reasonableness, temporariness and proportionality of the austerity measures;

(c) The exhaustion of alternative and less restrictive measures;

(d) The non-discriminatory nature of the measures proposed;

(e) Protection of a minimum core content of the rights;

(f) Genuine participation of affected groups and individuals in decision-making processes.

21. In June 2013, OHCHR undertook a mission to Basel, Switzerland, for meetings with the financial standard-setting bodies, namely the Bank for International Settlements, the Financial Stability Board, the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors, the Committee on Payment and Settlement Systems and the International Association of Deposit Insurers. The mission provided an entry point for further cooperation between these bodies and OHCHR.

C. Post-2015 development agenda

22. OHCHR has been active in promoting all human rights, including the right to development, in the deliberations and processes to define the post-2015 development agenda, through research, advocacy, consultations, expert meetings and engagement with Member States, civil society and the broader public.

23. The High Commissioner has highlighted the importance of building the post-2015 development agenda on the standards of human rights, including the right to development. In June 2013, she issued an open letter to all Member States (available from www.ohchr.org/Documents/Issues/MDGs/HCOpenLetterPost2015.pdf) in which she called for a new universal and balanced development framework that addresses both "freedom from fear and want" to realize all human rights for all without discrimination. Subsequent discussions held by the Open Working Group on Sustainable Development Goals reflected strong support and convergence on many human rights issues that the High Commissioner called for in her open letter. On 25 September 2013, the High Commissioner also addressed the General Assembly at the special event to follow up efforts made towards achieving the Millennium development Goals, at which a growing number of States expressed their strong support for a post-2015 development agenda based on human rights, as reflected in the outcome document.[6] She has also directly engaged with Member States in the Open Working Group on Sustainable Development Goals, which was tasked to consider the goals for a new development agenda. On the invitation of the co-Chairs of the Working Group, a

[4] E/2013/82.

[5] Seewww.ohchr.org/Documents/Issues/Development/RightsCrisis/E-2013-82_en.pdf.

[6] General Assembly resolution 68/6.

keynote was delivered on behalf of the High Commissioner at its sixth session on human rights and the right to development in December 2013.[7]

24. OHCHR has also provided technical assistance together with the United Nations system to support the work of the Working Group. It participated in the United Nations technical support team, which prepared thematic issue briefs to support the work of the Working Group, including on human rights and the right to development, inequality, governance and a global partnership for development. In particular, OHCHR co-authored the technical support team issues brief on "Human rights, including the right to development",[8] which highlighted the fact that, in order for the post-2015 development agenda to be grounded securely on the right to development as defined by the international community, the new agenda must direct development efforts to the realization of human rights, including through strengthened rule of law, greater human rights accountability, the active, free and meaningful participation of all people (including women, young people, migrants, older persons, minorities and persons with disabilities) and enhanced international cooperation. Where indigenous populations are concerned, participation should be governed by the principle of free, prior and informed consent. OHCHR also contributed to the Working Group's statistical note for the issue brief on "Human rights, including the right to development". Building the post-2015 development agenda on human rights requires integrating human rights throughout it. Assessing progress in the realization of the future agenda requires measuring both outcome and effort, disaggregating data, ensuring civil society participation and applying transparent criteria when selecting goals, targets and indicators. All targets and indicators should therefore be aligned with relevant existing human rights standards, including the right to development.

25. In 2013, OHCHR also published jointly with the Center for Economic and Social Rights the report "Who will be accountable? Human Rights and the Post-2015 Development Agenda".[9]

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7. Seewww.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14148&LangID=E.
8. Available from http://sustainabledevelopment.un.org/content/documents/2391TST%20Human%20Rights%20Issues%20Brief_FINAL.pdf.
9. Available from www.ohchr.org/Documents/Publications/WhoWillBeAccountable.pdf.

26. The High Commissioner reminded States that the right to development puts people at the centre of development. It addresses the linkages between the national and international conditions that are necessary for development. The right also provides substance for the guarantee enshrined in the Universal Declaration of Human Rights of a social and international order in which human rights can be fully realized. A truly enabling environment for development must address both the national and international constraints that limit the potential for development in all countries. Human rights entail extraterritorial obligations for all States to ensure that their policy decisions (as well as other actors under their jurisdiction, such as private corporations) do not have a negative impact on the human rights of people living in other countries.[10]

27. The current model of development is unequal, unstable and unsustainable. The financial, food, fuel, energy and climate crises have exacerbated inequalities both within and between countries, depriving millions of people of their right to a decent standard of living. In the outcome document of the United Nations Conference on Sustainable Development, entitled "The future we want", States called for a world that is "just, equitable and inclusive".[11]

28. A central objective of the new development agenda must be the eradication of poverty, especially extreme poverty, which should be understood more broadly than an income of $1.25 per day. Poverty is multidimensional. It is rooted in the chronic deprivation of resources, capabilities, choices, security and power necessary for an adequate standard of living and other fundamental human rights. The new agenda must therefore aim to promote and protect both freedom from want and freedom from fear for all people, without discrimination. It must aim to fulfil the rights to education, health, housing, food, water, sanitation and decent work and social security. It must also take account of people's concerns relating to personal security, access to and administration of justice, and the possibility of political participation, including free expression and association.

29. Furthermore, the imperative of equality should underpin the entire agenda, so that marginalized groups, previously locked out from development, are included. This implies that three principles –equality, non-discrimination and a broader sense of equity –are integrated throughout the sustainable development goals. One of the key failings of the Millennium Development Goals was their focus on average statistics and aggregate progress, which excluded many people from development. Inequalities, both within and between countries, have risen in ways that put economic growth and social cohesion at risk, as social tensions flare into divisive and violent conflict. Equality must be integrated throughout the new framework. This can be achieved by disaggregating data for all social groups for all goals, targets and indicators, and monitoring progress for each group. This will help to create greater equity in access to health, education and other key social services. It will help to ensure the inclusion of the marginalized, disempowered and excluded groups, including women, minorities, indigenous peoples, persons with disabilities, migrants and others. The new targets and indicators must also include measures to eliminate discrimination and measures to reduce social, economic and environmental inequalities. This should include addressing the unequal environmental burdens borne by

[10] The high-level task force on the implementation of the right to development concluded that the responsibility for the creation of an enabling environment for the realization of the right to development encompassed three main levels: (a) States acting collectively in global and regional partnerships; (b) States acting individually as they adopt and implement policies that affect persons not strictly within their jurisdiction; and (c) States acting individually as they formulate. national development policies and programmes affecting persons within their jurisdiction. See A/HRC/15/WG.2/TF/2/Add.2, annex.

[11] General Assembly resolution 66/288, para. 6.

indigenous peoples, traditional farmers, pastoralists, herders, coastal communities and people living in small island States in the face of natural disasters, desertification and global climate change.

30. The new agenda must also address inequalities between countries. In the wake of global financial, food, climate and energy crises – and the self-evident failures of global governance to prevent and mitigate their effects – the post-2015 agenda must address the pressing need for reforms at the international level. This includes human rights-based reforms of the institutions, processes and policies of global governance. It also includes democratizing the institutions of global governance, to give real voice and participation to all countries in global decision-making and to ensure greater fairness and equity in the shaping of the rules of global governance. This is essential in, for example, the field of trade, where rules on agricultural subsidies and intellectual property are still skewed in favour of the more powerful countries, in ways that often undermine the rights to food and health of people in developing countries. Meaningful reforms of trade, finance, investment, intellectual property, climate and other regimes are also needed to ensure that international rules and policies are consistent with, and do not undercut, the minimum standards set by human rights. All States must have the policy space to protect the human rights of their people, and must be held accountable for doing so.

31. The new agenda must also include a strong accountability framework, including accountability of the private sector. Millennium Development Goal 8, on global partnerships, included some useful indicators on aid, trade, debt and technology transfer, as well as on the need for special and differential treatment for least developed countries, including land-locked and small island developing States. No measurable targets, however, were set, and progress was not effectively monitored. The new agenda must build strong accountability mechanisms so that all States are accountable for honouring the commitments that they make. Other powerful actors, including private actors (such as transnational corporations), should also be held to account, to ensure responsible business practices. The exercise of due diligence, the use of human rights impact assessments, and the full application of the Guiding Principles on Business and Human Rights must all be ensured.

32. Lastly, it is vital that the new agenda be universally applicable. In the outcome document of the United Nations Conference on Sustainable Development, entitled "The future we want", States established that sustainable development goals must be universally applicable to all countries, while taking into account different national realities, capacities and levels of development. "Common but differentiated responsibilities" is a well-known concept in environmental law. International human rights law also takes account of States' different levels and stages of development through concepts of "progressive realization", "maximum available resources" and the duties of international assistance and cooperation. The right to development sets out the duty to create an enabling international environment. In the current debate over universality and differentiation, the universally agreed –and – universally applicable – normative framework of human rights thus seems more relevant than ever.

D. Mainstreaming the right to development

33. OHCHR is mandated to mainstream the right to development into United Nations policies, operational activities, guidelines and tools on development programming. To that end, OHCHR continued to chair and substantively lead the work of the United Nations Development Group human rights mainstreaming mechanism.

34. One focus area of the mechanism is policy coherence across the United Nations system and strengthening the positioning of human rights within global development agendas as a whole. During the period under review, OHCHR and the mechanism worked to support Member States in the integration of human rights and right to development provisions in the quadrennial comprehensive policy review. The review requested the United Nations to link normative (including human rights) and operational work and to provide capacity-development towards a more participatory and accountable development process. The strategic priorities for 2014-2017 of the United Nations Development Group were also subsequently revised, and now aim to deliver more coherent, effective and efficient support to countries in the achievement of internationally agreed development goals and human rights treaty obligations.

35. OHCHR continues to lead the United Nations system with regard to the realization of the right to development. This includes forging potential concrete partnerships on specific thematic areas, such as trade, finance and investment. OHCHR will take the lead within the mainstreaming mechanism on how human rights, including the right to development, can be further integrated into the strategic positioning of human rights within the context of the United Nations Development Group and within development activities.

36. In 2013, the United Nations Human Settlements Programme (UN-Habitat) adopted a document entitled "UN-Habitat commitment to the human rights-based approach to development", and its Executive Director strongly supported a human rights-based approach in all aspects of its work. OHCHR contributed to this development through the joint UN-Habitat/OHCHR United Nations housing programme and different human rights mainstreaming activities, including side events during UN-Habitat governing body meetings, human rights training for UN-Habitat senior management and meetings between the High Commissioner and the Executive Director of UN-Habitat. The UN-Habitat human rights strategy is planned to be put in place through, inter alia, guidance notes and training for staff members, explaining the linkages between their sectorial work and human rights, incorporating adequate procedures and safeguard in projects, and the establishment of an advisory group on human rights within the organization. OHCHR will continue to provide assistance during this process.

E. Other activities

37. In September 2013, OHCHR participated in a side event held during the twenty-fourth session of the Human Rights Council on the right to development and the post-2015 development agenda, organized by the members of the Working Group on the Right to Development and International Solidarity of the Geneva Forum of Catholic-Inspired NGOs,[12] speaking on the theme "Realizing the transformative vision of the Declaration on the Right to Development". OHCHR participated in an event devoted to "International youth leadership on the right to development", sponsored by the National Association of Women's Organizations and Ariel Foundation International, with the co-sponsorship of World YWCA, the Inter-African Committee on Practices Affecting the Health of Women and Girls, GEO International and the Global Education Institute for Shipboard Education. OHCHR elaborated on the right to development, including through identifying and relating

[12] Associazione Comunità Papa Giovanni XXIII, Association Points-Coeur, Caritas Internationalis (International Confederation of Catholic Charities), Dominicans for Justice and Peace (Order of Preachers), International Institute of Mary Our Help of the Salesian Sisters of Don Bosco, International Volunteerism Organization for Women, Education, and Development, International Organization for the Right to Education and Freedom of Education, New Humanity.

its principles to presentations by youth on a variety of themes of particular relevance to young people.

38. In October 2013, OHCHR made a presentation at a training course organized by the United Nations Conference on Trade and Development in Bosnia for economies in transition on a new generation of international investment policies. The presentation focused on the human rights impact of trade and investment agreements. In November 2013, OHCHR organized jointly with the United Nations Development Programme and Transparency International, and in cooperation with Austria, Morocco and Poland, a side event on the human rights case against corruption during the fifth session of the Conference of the States Parties to the United Nations Convention against Corruption in Panama. The event concluded, inter alia, that effective anti-corruption efforts are essential to the creation of an enabling environment for development at both the national and international levels, as envisaged in the Declaration on the Right to Development. Also in November, OHCHR provided a briefing on the right to development to some 50 European Union staff members in charge of human rights within the European Commission and the European External Action Service. The briefing covered the broad mandate of the High Commissioner with regard to the right to development, and the challenges faced in the implementation of this right. In January 2014, OHCHR delivered a briefing for Commonwealth Member States on the right to development, with a particular focus on the draft right to development criteria and sub-criteria, including entry points, opportunities and technical aspects for Member States to contribute to the revision of the draft criteria and sub-criteria within the Working Group on the Right to Development.

39. In March 2014, the High Commissioner addressed a side event held during the twenty-fifth session of the Human Rights Council on the theme "Africa and the right to development: towards the post-2015 development agenda", organized by Egypt, the African Union and the National Council for Human Rights of Egypt. Against the backdrop of challenges faced by the continent in achieving sustainable and inclusive development, including inequitable and exploitative economic arrangements, poverty, inequalities and vulnerabilities, discrimination, conflict and disproportionate effects of climate change, participants in the event stressed in their presentations and discussions the need to place the right to development at the centre of the post-2015 agenda and sustainable development goals. The High Commissioner called for a new agenda aligned with the human rights framework, with the right to development at its centre, underpinned by a strong accountability framework of goals, targets and indicators. She advocated a new social and international order strengthened by the right to development to address systemic failures, structural injustices and responsibility gaps in global governance, and a genuine global partnership for development.

40. Also in March, OHCHR participated in a side event on human rights and sustainable development, organized by the Permanent Mission of Gabon. OHCHR spoke on the theme "The right to development and its inclusion in the post-2015 development agenda". Recalling the universal human rights framework, the Declaration on the Right to Development and the outcome document of the United Nations Conference on Sustainable Development, OHCHR stressed the need to place the right to development at the centre of the post-2015 development agenda and sustainable development goals, together with a strong framework for accountability.

41. In Addis Ababa, OHCHR participated in conferences organized by the Economic Commission for Africa in close partnership with the African Union on such themes as gender, development, statistics, trade, finance and justice, with a view to highlight the imperative and value of integrating the right to development and a human rights-based approach into the formulation, implementation and monitoring of policies and strategies in different fields. Interactions with the African Peer Review Mechanism Unit of the

Commission, including on the need to review the functioning of the Mechanism through the prism of the right to development, was initiated in 2012. The potential review of the Mechanism by OHCHR in the light of the tenets of the right to development constitutes one entry point to mainstreaming human rights, including the right to development, into the Mechanism.

42. In Beirut, OHCHR, as a member of the regional United Nations Development Group, raised awareness of the importance of integrating human rights including the right to development in development policies and programmes. Its increased engagement at the regional level on the right to development and the post-2015 development agenda seeks to strengthen collaboration with the regional United Nations Development Group and the Economic and Social Commission for Western Asia in analysing development plans with a view to aligning them with international human rights standards.

43. The above-mentioned activities resulted in greater visibility of the right to development both as a human right and a guiding instrument for the post-2015 development agenda.

IV. Activities by United Nations human rights mechanisms

44. OHCHR continued to provide support to the Working Group on the Right to Development, in particular at its fourteenth annual session, held from 13 to 17 May 2013, and its informal inter-sessional meeting, held on 3 and 4 April 2014. OHCHR also supported the Chairperson-Rapporteur in holding informal consultations and presenting the report of the Working Group to the Human Rights Council and to the General Assembly. In October 2013, OHCHR issued a press release thereon.[13]

45. In October 2013, the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights submitted a report to the General Assembly on Millennium Development Goal 8, and in particular on the lessons for the post-2015 development framework of the United Nations.[14] In his report, the Independent Expert argued that implementing a human rights-based approach fully –with its emphasis on equality, non-discrimination, participation and accountability – could help to assure a more inclusive, equitable and sustainable post-2015 global development framework that is consistent with the obligations of States to realize human rights, including the right to development, and an effective partnership based on the principles of international cooperation and solidarity.

46. In April 2014, on the occasion of the Global Day of Action on Military Spending, the Independent Expert on the promotion of a democratic and equitable international order urged States to cut military spending and invest more in human development.[15] In this regard, article 7 of the Declaration on the Right to Development called upon all States to promote the establishment, maintenance and strengthening of international peace and security and, to that end, do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by

[13] "Right to Development: Political will urgently needed to address rising inequalities", 31 October 2013, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13927&LangID=E.

[14] A/68/542.

[15] "UN expert urges States to cut military spending and invest more in human development", 14 2014, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14504&LangID=E.

effective disarmament measures are used for comprehensive development, in particular that of developing countries.

V. Conclusions and recommendations

47. **The active outreach, advocacy and awareness-raising conducted by the Office of the High Commissioner on the right to development has contributed to growing engagement by educational institutions, non-governmental organizations and youth groups, including through the organization of independent events promoting creative dialogue. In going forward, OHCHR will continue its efforts to enable, nurture and support the free, active and meaningful participation of civil society and youth for the right to development. It will continue to lead in sustained, progressive and incremental steps to promote and protect the realization of the right to development.**

48. **The right to development should be central to the post-2015 development agenda. According to article 1 of the Declaration on the Right to Development, the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.**

49. **The right to development provides substance for the guarantee enshrined in the Universal Declaration of Human Rights of a social and international order in which all human rights can be fully realized. The post-2015 development agenda will therefore need to aim at building a new, more equitable and sustainable national and international order, firmly based on the foundation of human rights, including the Universal Declaration of Human Rights and the Declaration on the Right to Development.**

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Plan of Action for the third phase (2015–2019) of the World Programme for Human Rights Education

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In accordance with Human Rights Council resolution 24/15, the Office of the United Nations High Commissioner for Human Rights (OHCHR) prepared, in the first quarter of 2014, a draft plan of action for the third phase (2015–2019) of the World Programme for Human Rights Education on the basis of, inter alia, relevant United Nations instruments and documents, the plans of action for the first (2005–2009) and second (2010–2014) phases of the World Programme and OHCHR and other United Nations published material.

In April and May, the draft plan of action was submitted for review to States, relevant intergovernmental organizations, including the United Nations Educational, Scientific and Cultural Organization (UNESCO), national human rights institutions and civil society. As of 4 July, OHCHR had received 30 replies with comments, which have been taken into consideration in the final text, which constitutes sections II to V of the present report.

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I. Introduction

A. Context and definition of human rights education

1. The international community has increasingly demonstrated consensus regarding the fundamental contribution of human rights education to the realization of human rights. Human rights education is aimed at developing an understanding of our common responsibility to make human rights a reality in every community and in society at large. In that sense, it contributes to the long-term prevention of human rights abuses and violent conflicts, the promotion of equality and sustainable development and the enhancement of participation in decision-making processes within a democratic system.

2. Provisions on human rights education have been incorporated into many international instruments and documents, including the Universal Declaration of Human Rights (art. 26); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 7); the International Covenant on Economic, Social and Cultural Rights (art. 13); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 10); the Convention on the Elimination of All Forms of Discrimination against Women (art. 10); the Convention on the Rights of the Child (art. 29); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 33); the Convention on the Rights of Persons with Disabilities (arts. 4 and 8); the Vienna Declaration and Programme of Action (Part I, paras. 33–34; Part II, paras. 78–82); the Programme of Action of the International Conference on Population and Development (paras. 7.3 and 7.37); the Durban Declaration and Programme of Action (Declaration, paras. 95–97; Programme of Action, paras. 129–139) and the outcome document of the Durban Review Conference (paras. 22 and 107); and the 2005 World Summit Outcome (para. 131).

3. In December 2011, the General Assembly adopted, without a vote, the United Nations Declaration on Human Rights Education and Training. The Declaration states that human rights education provides persons with knowledge and skills and develops their attitudes and behaviours so as to empower them to enjoy and exercise their rights, and to respect and uphold the rights of others (art. 2). It affirms that States, and where applicable relevant governmental authorities, have the primary responsibility to promote and ensure human rights education and training, and that States should create a safe and enabling environment for the engagement of civil society and other relevant stakeholders in those processes (art. 7).

4. In accordance with those instruments, which contain elements of a definition of human rights education agreed upon by the international community, human rights education can be defined as any learning, education, training or information efforts aimed at building a universal culture of human rights, including:

(a) Strengthening respect for human rights and fundamental freedoms;

(b) Fully developing the human personality and sense of dignity;

(c) Promoting understanding, tolerance, respect for diversity, gender equality and friendship among all nations, indigenous peoples and minorities;

(d) Enabling all persons to participate effectively in a free and democratic society governed by the rule of law;

(e) Building and maintaining peace;

(f) Promoting people-centred sustainable development and social justice.

5. Human rights education encompasses:

(a) Knowledge and skills — learning about human rights and human rights mechanisms and acquiring skills to apply them in a practical way in daily life;

(b) Values, attitudes and behaviour — developing values and reinforcing attitudes and behaviour which uphold human rights;

(c) Action — taking action to defend and promote human rights.

6. With a view to encouraging human rights education initiatives, Member States have adopted various specific international frameworks for action, such as the World Public Information Campaign on Human Rights (1988, ongoing), focusing on the development and dissemination of human rights information materials; the United Nations Decade for Human Rights Education (1995–2004) and its plan of action, encouraging the elaboration and implementation of comprehensive, effective and sustainable strategies for human rights education at the national level; the International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001–2010); the United Nations Decade of Education for Sustainable Development (2005–2014); and the International Year of Human Rights Learning (2008–2009). Other international frameworks which promote, inter alia, human rights education include the International Decade for the Rapprochement of Cultures 2013–2022; the Education for All (2000–2015) movement; the Global Education First Initiative of the United Nations Secretary-General; and the post-2015 development agenda.

7. On 10 December 2004, the General Assembly proclaimed the World Programme for Human Rights Education. The World Programme, which began on 1 January 2005, is aimed at advancing the implementation of human rights education programmes in all sectors.

B. Objectives of the World Programme for Human Rights Education

8. The objectives of the World Programme for Human Rights Education are:

(a) To promote the development of a culture of human rights;

(b) To promote a common understanding, based on international instruments, of basic principles and methodologies for human rights education;

(c) To ensure a focus on human rights education at the national, regional and international levels;

(d) To provide a common collective framework for action by all relevant actors;

(e) To enhance partnership and cooperation at all levels;

(f) To survey, evaluate and support existing human rights education programmes, to highlight successful practices and to provide an incentive to continue and/or expand them and to develop new ones;

(g) To promote implementation of the United Nations Declaration on Human Rights Education and Training.

C. Principles for human rights education activities

9. Educational activities within the World Programme shall:

(a) Promote the interdependence, interrelatedness, indivisibility and universality of human rights, including civil, political, economic, social and cultural rights and the right to development;

(b) Foster respect for and appreciation of diversity, and opposition to discrimination on the basis of race, sex, gender, language, religion, political or other opinion, national, ethnic or social origin, disability or sexual orientation and on other bases;

(c) Encourage analysis of chronic and emerging human rights problems, including poverty, violent conflicts and discrimination, in the light of rapidly changing developments in the political, social, economic, technological and environmental fields, which would lead to responses and solutions consistent with human rights standards;

(d) Empower communities and individuals to identify their human rights entitlements and to claim them effectively;

(e) Develop the capacity of duty-bearers, in particular governmental officials, to meet their obligation to respect, protect and fulfil the human rights of those under their jurisdiction;

(f) Build on the human rights principles embedded within the differing cultural contexts and take into account historical and social developments in each country;

(g) Foster knowledge of, and the acquisition of skills to use, local, national, regional and international human rights instruments and mechanisms for the protection of human rights;

(h) Make use of participatory pedagogies that include knowledge, critical analysis and skills for action furthering human rights and that take into consideration the age and the cultural specificities of the learners;

(i) Foster teaching and learning environments free from want and fear that encourage participation, the enjoyment of human rights and the full development of the human personality;

(j) Be relevant to the daily life of the learners, engaging them in a dialogue about ways and means of transposing human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions.

II. Third phase (2015–2019) of the World Programme for Human Rights Education: a plan of action to strengthen implementation of the first two phases and promote human rights training for media professionals and journalists

A. Scope

10. The first phase (2005–2009) of the World Programme was dedicated to the integration of human rights education in the primary and secondary school systems. The plan of action for its implementation (A/59/525/Rev.1) was adopted by the General Assembly in July 2005.

11. The second phase (2010–2014) of the World Programme was focused on human rights education in higher education and human rights training for teachers and educators, civil servants, law enforcement officials and military personnel at all levels. The plan of action for its implementation (A/HRC/15/28) was adopted by the Human Rights Council in September 2010.

12. In its resolution 24/15, the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare the present plan of action for the third phase (2015–2019) of the World Programme, devoted to strengthening the implementation of the first two phases and promoting human rights training for media professionals and journalists.

B. Specific objectives

13. In view of the overall objectives of the World Programme (see sect. I.B above), the present Plan of Action is aimed at achieving the following specific objectives:

(a) To strengthen implementation of human rights education in the primary and secondary school systems and in higher education, and human rights training for teachers and educators, civil servants, law enforcement officials and the military;

(b) With regard to media professionals and journalists:

(i) To highlight their role in the promotion and the protection of human rights;

(ii) To provide guidance on effective human rights training programming for media professionals and journalists;

(iii) To support the development, adoption and implementation of relevant sustainable training strategies;

(iv) To highlight the importance of enabling environments guaranteeing the protection and safety of media professionals and journalists;

(v) To facilitate support for human rights training for media professionals and journalists by local, national, regional and international organizations;

(vi) To support networking and cooperation among local, national, regional and international governmental and non-governmental institutions and organizations.

C. Action to strengthen implementation of human rights education in the primary and secondary school systems and in higher education, and human rights training for teachers and educators, civil servants, law enforcement officials and the military

1. Strategies

14. The present section examines strategies to strengthen implementation of human rights education in the target sectors highlighted during the first and second phases of the World Programme, which were the primary and secondary school systems, higher education, teachers and educators, civil servants, law enforcement officials and the military. The strategies identified by the Human Rights Council in resolution 24/15 are listed below.

Advancing implementation and consolidating the work done

15. Advancing and consolidating efforts undertaken during the first two phases of the World Programme require an assessment of the planning, coordination, implementation and

evaluation processes carried out during the first two phases and any related national implementation plan(s). Section III below offers guidance on how to undertake such an analysis, which can be compared with any baseline data collected in the first two phases in order to determine progress made.

16. Depending on the results of the analysis, strategies for advancing and consolidating current efforts can be developed and incorporated into the implementation plan for the third phase of the World Programme, including, but not restricted to, strategies concerning:

(a) New or revised laws and policies;

(b) Increased coherence between various human rights education components, such as training curricula, and teaching and learning content, practice and policies;

(c) Expansion of the presence of human rights education in curricula and related training;

(d) Improvements in the quality and impact of existing human rights education programming;

(e) Increased human and financial support;

(f) Putting in place effective and inclusive monitoring and assessment processes with regard to human rights education efforts that rely on appropriate indicators and data collection mechanisms and provide information for the ongoing improvement of programming;

(g) Increased coherence between human rights education efforts and other related efforts, for instance efforts to promote respect for diversity, a culture of peace and non-violence, civic education and global and citizenship education;

(h) High-quality and sustained human rights education and training through the fulfilment of the above tasks.

17. Strategies for advancing implementation and consolidating the work done should continue to incorporate a human rights-based approach to education and learning, as follows:

(a) "Human rights through education": ensuring that all the education components and processes, including curricula, materials, methods and training are conducive to learning about human rights;

(b) "Human rights in education": ensuring respect for the human rights of all actors, and the practice of rights, in the learning and working environment.

Providing human rights education and training for educators in formal and non-formal education and training, in particular those working with children and youth

18. Both the first and second phases of the World Programme highlighted the importance of human rights education and training for educators, meaning those who design, develop, implement and evaluate education activities in formal, informal and non-formal settings.[1] The plans of action for the first and second phases highlighted the fact that

[1] See the Plan of Action for the second phase (A/HRC/15/28), para. 14. In general, "formal education" refers to school, vocational training and university education; "non-formal education" refers to adult learning and forms of education that complement formal education, such as community service and extra-curricular activities; and "informal education" refers to activities developed outside the education system, such as those carried out by non-governmental organizations (Plan of Action for the first phase, Appendix, footnote 3).

teachers, higher education teaching personnel and other education staff have a major role and responsibility to transmit human rights values, skills, attitudes, motivation and practices, both in the performance of their professional responsibilities and in their function as role models. Accordingly, human rights education for those professional groups, aimed at fostering their knowledge about, commitment to and motivation concerning human rights, is a priority strategy of any human rights education programming in the formal education system. The same priority strategy applies, by analogy, to those performing the function of educators in other settings, in particular those working with out-of-school children and youth, as well as parents.

19. Strategies for the human rights education and training of educators may include the adoption of a comprehensive human rights training policy, the introduction of human rights and human rights education principles and standards into the training curriculum, the use and fostering of appropriate methodologies and assessment methods and the development of related resources.

20. Adopting a comprehensive human rights training policy for educators may include the following elements:

(a) Spelling out and adopting the internationally-agreed definition of human rights education and training as an empowering process transferring knowledge and developing skills, attitudes and behaviour which promote and protect human rights;

(b) Pre-service and in-service training, available to all educators, adapted to their particular culture, education and experience and based on training needs assessment;

(c) The training of trainers, in particular those delivering pre-service and in-service training, who should be qualified and experienced human rights education practitioners and should reflect the diversity of the learners;

(d) Considering human rights education as a criterion for the qualification, accreditation and career development of educational staff;

(e) Recognizing, accrediting and supporting non-governmental organizations and other sectors of civil society carrying out training activities in human rights education;

(f) Improving criteria and standards to evaluate training programmes and their implementation;

(g) Tackling the issue of creating enabling learning and working environments for educators, as human rights learning can take place effectively only where human rights are practised.

21. A human rights training curriculum for educators should include the following elements:

(a) Learning objectives that encompass knowledge, skills, attitudes and behaviour with respect to human rights and human rights education;

(b) Human rights principles and standards, as well as protection mechanisms in place in and beyond the communities where the educators are active;

(c) Rights and contribution of educators and learners in addressing human rights issues in the community where they live, including security issues;

(d) The principles for human rights education activities outlined in section I.C above;

(e) Appropriate methodology for human rights education which is participatory, learner-centred, experiential and action-oriented, and takes into account cultural considerations;

(f) Educators' social skills and leadership styles that are democratic and coherent with human rights principles;

(g) Information on existing teaching and learning resources for human rights education, including information and communication technologies, to build capacity to review and choose from among them as well as to develop new resources;

(h) Regular and motivating learner assessment, both formal and informal.

22. Training methodologies for training educators include participatory, learner-centred, experiential and action-oriented approaches and should address motivation, self-esteem and emotional development leading to human rights sensitization and action. Evaluation should be infused throughout the training process.[2]

Undertaking related research and mapping, sharing good practices and lessons learned, and sharing information among all actors

23. Research on existing materials, programmes and methodologies, and evaluation of related results should be undertaken or increased. Information gathered should be regularly shared with a view to improving and inspiring further programming.

24. Education and training resources and materials, lessons learned and examples of methodologically-sound practice should be shared locally, nationally and internationally. Dissemination channels include electronic and online channels, resource centres, databases and the organization of gatherings.

Applying and strengthening sound educational methodologies based on good practices and assessed through continued evaluation

25. Sound methodology is key to the success or failure of any educational effort. Effective human rights education is participatory, experiential, learner-centred, action-oriented and takes into account cultural contexts.

26. Evaluation is an essential component of any human rights education and training activity. In the context of human rights education, it represents a systematic undertaking aimed at gathering information about the impact, that is the extent of changes at the level of the learners, their organizations and their communities leading to greater respect for human rights, that can be reasonably connected with the education activity. Evaluation is an ongoing improvement process that takes place throughout human rights education programmes, and supports decisions about how to improve their effectiveness. For instance, evaluation of a human rights training course is not a matter of simply asking participants to fill out an evaluation questionnaire at the end; it has to start during the training planning phase, with a thorough needs assessment, and continue well after the end of the training course itself.[3]

Fostering dialogue, cooperation, networking and information-sharing among relevant stakeholders

27. Human rights education requires close cooperation and partnership within and among governmental agencies, national human rights institutions and civil society. It can be

[2] OHCHR, *Human Rights Training: A Manual on Human Rights Training Methodology* (HR/P/PT/6) (New York and Geneva, United Nations, 2000); OHCHR and Equitas – International Centre for Human Rights Education, *Evaluating Human Rights Training: A Handbook for Human Rights Educators* (HR/P/PT/18) (Montreal, Equitas, 2011).

[3] See OHCHR/Equitas, *Evaluating Human Rights Training*.

reinforced by a variety of actions aimed at connecting human rights education stakeholders: awareness-raising campaigns, national and local gatherings, "communities of practice", newsletters, websites and other electronic platforms, such as online discussion groups, as well as staff exchanges, in order to support mutual sharing of knowledge, lessons learned and good practices. Professional groups and the production of journals may be institutionalized in order to foster sustained scientific exchanges.

Furthering the integration of human rights education and training into school and training curricula

28. Strategies for integrating human rights education into the school curricula were presented in the appendix to the Plan of Action for the first phase of the World Programme (para. 5 (e)). During the third phase, depending on progress made in that area, further efforts should be made to increase the presence of human rights education in:

(a) The overall national curricula and educational standards;

(b) All curriculum subjects, including by identifying whether human rights education is subject-based and/or cross-curricular and whether it is obligatory or optional;

(c) Teaching and learning processes;

(d) Textbooks and teaching and learning materials;

(e) The learning environment;

(f) Vocational education and training.

29. Strategies for integrating human rights education into curricula for the training of educators, civil servants, law enforcement officials and the military were presented in the Plan of Action for the second phase of the World Programme (para. 33 (a)). During the third phase, depending on progress made in that area, further efforts could be made to increase the presence of human rights education in:

(a) Training standards;

(b) All curriculum subjects, including by identifying whether human rights education is subject-based and/or cross-curricular and whether it is obligatory or optional;

(c) Training and learning processes;

(d) Training and learning materials;

(e) The overall learning and working environment.

2. Actors

30. The main responsibility for advancing the implementation of human rights education during the third phase rests with:

(a) For primary and secondary education, ministries of education or equivalent institutions;

(b) For higher education, ministries of education or higher education or equivalent institutions, as well as higher education institutions and relevant training colleges, with varying levels of responsibility depending upon the degree of institutional autonomy;

(c) For the training of civil servants, law enforcement officials and the military, the ministries responsible for the civil service, law enforcement officials and the military; depending on arrangements in specific countries, they may be the ministry of public

administration, the ministry of the interior, the ministry of justice or the ministry of defence.

31. All actors should work together with other relevant government departments, such as finance ministries, and local government, and in close cooperation with national human rights institutions and civil society. Specific actors which should be involved in each sector covered by the first two phases of the World Programme are enumerated respectively in the plans of action for the first phase (sect. D, paras. 28–30) and second phase (sect. C.3, paras. 34–36 and sect. D.3, paras. 46–48).

D. Action to promote human rights training for media professionals and journalists

1. Background

32. The Human Rights Committee has defined journalism as "a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere".[4] According to the General Assembly, "journalism is continuously evolving to include inputs from media institutions, private individuals and a range of organizations that seek, receive and impart information and ideas of all kinds, online as well as offline, in the exercise of freedom of opinion and expression".[5] That includes information shared through traditional channels or through the Internet and Internet communication technologies or social media, diffused by public and private media outlets, as well as by individuals who are engaged in journalism activities not formally employed by a media outlet.

33. For the purpose of the present Plan of Action, the term "media professionals" refers to persons supporting the work of media organizations, including reporters and analysts, but also other staff, such as technicians and administrators. "Journalist" refers to media workers and social media producers who produce significant amounts of journalistic material, as defined in paragraph 32 above.

34. With regard to human rights training for media professionals and journalists, the present Plan of Action draws on the principles and frameworks established by international human rights instruments and documents, including the Universal Declaration of Human Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights and general comment No. 34 (2011) of the Human Rights Committee on article 19: Freedoms of opinion and expression; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the Vienna Declaration and Programme of Action; the Convention on the Rights of Persons with Disabilities; the United Nations Declaration on the Rights of Indigenous Peoples; the United Nations Declaration on Human Rights Education and Training; the UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War (hereafter "the UNESCO Declaration"); the UNESCO Recommendation on participation by the people at large in cultural life and their contribution to it; and other UNESCO documents. The present Plan of Action also draws on a number of relevant General Assembly and Human Rights Council resolutions. The

[4] See general comment No. 34 (2011) of the Human Rights Committee on article 19: Freedoms of opinion and expression, para. 44.

[5] General Assembly resolution 68/163, ninth preambular paragraph.

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression also prepares regular reports, thematic or country specific, that include analysis and interpretation of relevant human rights standards. Beyond the United Nations system, regional instruments and mechanisms also provide relevant guidance.

35. Taken together, international instruments and documents highlight several issues related to journalism which States Members of the United Nations have emphasized. A first issue is the role of the media in democratic societies and, in particular, in promoting human rights, peace, democracy and development. Freedom of expression, including freedom to seek, receive and impart information through any media, as provided for in the International Covenant on Civil and Political Rights (art. 19), is a necessary condition for the realization of participation, transparency and accountability, which are, in turn, essential for the promotion and protection of human rights; and a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of expression.[6] The Convention on the Rights of the Child highlights the role and responsibility of the mass media in disseminating information and material of social and cultural benefit to children, with due regard to the linguistic needs of children belonging to minority or indigenous communities (art. 17). The UNESCO Declaration states that mass media have an essential part to play in human rights education, particularly of young people, and can contribute effectively to counter "aggressive war, racialism, apartheid and other violations of human rights which are inter alia spawned by prejudice and ignorance" (art. III (2)). The International Convention on the Elimination of All Forms of Racial Discrimination recognizes that effective measures in the fields of education, teaching, culture and information can combat prejudices that lead to racial discrimination (art. 7).

36. States Members of the United Nations also recognize the role of diverse media in the realization of cultural rights. The UNESCO Recommendation on participation by the people at large in cultural life and their contribution to it highlights the role of the mass media as "instruments of cultural enrichment" owing in part to their role in the preservation and popularization of traditional forms of culture, and "by turning themselves into media for group communication and promoting direct participation by the people". The United Nations Declaration on the Rights of Indigenous Peoples recognizes the right of indigenous groups to establish their own media in their own languages; State-owned media should reflect indigenous cultural diversity and States should encourage privately owned media to adequately reflect it (art. 16).

37. United Nations instruments also specify the responsibility of media professionals and journalists to respect human rights in performing their functions. International human rights law recognizes that the exercise of freedom of expression carries with it special duties and responsibilities and may be subject to certain restrictions, for example on security and defamation grounds, following strict tests of legality, necessity and proportionality, as well as in relation to other standards, such as the right to privacy or the prohibition of hate speech. The Human Rights Committee, among other mechanisms, has provided extensive jurisprudence and authoritative guidance on those issues.

38. A major issue of concern to the international community is the protection and safety of journalists. Both the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have highlighted the many challenges faced by journalists in carrying out their work, for instance when covering street protests and demonstrations or reporting on politically sensitive issues, such as human rights violations. The Special Rapporteur on the situation of human rights defenders has also provided

[6] See general comment No. 34 of the Human Rights Committee, paras. 3 and 13.

analysis and recommendations relative to selected groups of defenders at risk, including journalists and media workers. The Security Council has expressed deep concern and condemned the acts of violence and attacks in many parts of the world against journalists, media professionals and associated personnel in armed conflict. In numerous resolutions, the Security Council, the General Assembly and the Human Rights Council have condemned violence against journalists and called on Member States to ensure their protection, end impunity and prosecute those responsible. In conflict areas, journalists and media professionals enjoy specific protection under international humanitarian law.[7]

2. Strategies

39. As highlighted above, media professionals and journalists play a fundamental role in the promotion and protection of human rights. Effective human rights education fosters their knowledge about, commitment to and motivation concerning human rights. Human rights principles provide essential guidance for their professional performance and the work of media outlets, which can only take place in an enabling environment in which access to information, freedom of expression and safety are protected.

40. All journalists should be given equal human rights training opportunities. Human rights-related content and values, with an emphasis on contextual specificities, should be part of any formal training and/or certification and should also be made available through opportunities for ongoing professional development. Whereas all journalists should have basic human rights literacy, specialized courses, such as on human rights reporting, should also be made available to them.

41. A comprehensive approach to human rights training for media professionals and journalists would include action in the three areas listed below.

Policies and related implementation measures

42. If training is to produce the desired impact on professional performance, it must be clearly supported by and linked to corresponding policies and rules concerning not only training, but also the work of the profession in general. To that end, with regard to media professionals and journalists, the following strategies could be adopted:

(a) Reviewing existing education and training policies to make sure that they incorporate human rights training;

(b) Adopting policies that strengthen human rights education for media professionals, including policies on:

(i) Pre-service and in-service training of media professionals, including editors and others in decision-making positions within media outlets, through the inclusion of human rights curricula in formal educational institutions and in online and/or community-based education for working journalists;

(ii) Human rights education as a criterion for qualification, mentoring and career development;

(iii) Recognition and support to civil society, in particular media associations, carrying out human rights training activities;

(iv) Criteria and mechanisms for the evaluation of human rights training programmes;

[7] See the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/14/23).

(c) Training media professionals and journalists as trainers capable of sharing knowledge and skills with their colleagues, in order to ensure the broadest possible impact within the media professionals' community, with a focus on selecting those especially suited to cover issues related to groups in situations of vulnerability. Training-of-trainers programmes should include sessions on training methodology, outlined in paragraph 44 below, and the design of both training materials and training sessions;

(d) Introducing incentives for media professionals and journalists, especially those coming from groups in situations of vulnerability, to encourage their voluntary participation in human rights training programmes, and promoting their stories to a wide audience;

(e) Supporting the adoption of self-regulatory frameworks, such as codes of ethical conduct, and the establishment of bodies, such as media councils, to deliberate inter alia on training issues and standards;

(f) Reviewing regulations concerning the work of the media and journalists to make sure that they are not inconsistent with human rights standards and that they specifically promote the contribution of the profession to human rights.

Training processes and tools

43. Human rights education curricula for media professionals and journalists could include the following modules:

(a) A basic introduction to human rights, with information on:

(i) The role of media professionals and journalists in the promotion and protection of human rights;

(ii) International, regional and national human rights instruments and standards, including those protecting groups in situations of vulnerability;

(iii) International, regional and national governmental and other bodies, such as national human rights institutions, responsible for protecting and promoting human rights;

(iv) Human rights defenders and civil society organizations at the international, regional and national levels;

(b) Human rights of media professionals and journalists, with information on:

(i) International, regional and national instruments and standards relating to freedom of expression and the safety of media professionals and journalists;

(ii) International, regional and national mechanisms and procedures relating to freedom of expression and the safety of media professionals and journalists;

(c) Respect of human rights in journalistic practice, including:

(i) Human rights principles in journalism, including equality and non-discrimination, respect for dignity, participation, transparency and accountability;

(ii) International, regional and national instruments and standards on legitimate restrictions to freedom of expression;

(iii) Gender sensitivity;

(iv) Representative sourcing, including the use of information from a variety of sources to ensure a balanced approach;

(v) Human rights principles relevant to gathering and sharing information and reporting on human rights issues, concerns and violations, especially the "do no

harm" principle, confidentiality and protection of sources, victims and witnesses of violations;

(vi) Human rights standards and related skills with regard to dealing with and interviewing individuals who may be in situations of vulnerability and/or have experienced trauma, including respect for their dignity, privacy and safety, and how to ensure that informed consent has been obtained before publicizing identifying information;

(vii) Human rights standards and related skills involved in the use of "fixers", stringers, freelancers, interpreters and assistants in journalistic contexts, including ensuring their safety;

(viii) Human rights issues relating to the protection of journalistic sources and whistle-blowers, including how to protect sensitive data;

(d) Promotion of human rights by media professionals and journalists, addressing the selection and assessment of stories on the basis of their contribution and impact in relation to the protection and promotion of human rights, particularly with regard to "equality and non-discrimination, with a view to combating stereotypes and violence, fostering respect for diversity, promoting tolerance, intercultural and interreligious dialogue and social inclusion, and raising awareness of the universality, indivisibility and interrelatedness of all human rights among the general public";[8]

(e) Useful resources, including:

(i) Information on existing resources for human rights training related to the above-mentioned modules, to build the capacity of trainers to review and choose from among them as well as to develop new ones;

(ii) Information on resource materials for self-education, including handbooks, guides, guidelines, online platforms and human rights glossaries.

44. From a methodological perspective, strategies to ensure the effectiveness of human rights training programmes and courses for media professionals and journalists include the following:[9]

(a) Audience-specificity: training must be directly targeted and appropriately addressed to media professionals. A consultative training needs assessment should be organized in order to undertake an analysis of the professional duties, experiences, expectations, personal backgrounds and aspirations of learners, as well as their level of human rights knowledge and skills; to set up specific learning objectives, including desired post-training changes in participant knowledge, skills, attitudes and behaviour; to design an evaluation strategy, and in particular how the achievement of the learning objectives will be measured; and to assess other activities that should be implemented;

(b) Peer learning: much more can be accomplished through an approach that features journalists being trained by their peers as opposed to a teacher-student training model. The peer approach ensures trainers' access to the distinctive professional culture that surrounds a professional audience. Also, trainers should represent the diversity of learners, both in terms of journalists using different media, including online and multimedia, and belonging to different groups. Media practitioner trainers should be accompanied and supported by human rights experts, thus ensuring that human rights standards are fully and consistently reflected in the training process;

[8] Human Rights Council resolution 24/15, para. 3.

[9] See OHCHR, *Human Rights Training: A Manual on Human Rights Training Methodology*.

(c) Adult learning methodologies, in particular participatory and learner-centred approaches addressing motivation, self-esteem and emotional development leading to human rights awareness and action to protect and promote human rights;

(d) Experiential methods specifically for the training of journalists, such as the creation/use of media outlets during training, and the use of examples of good and of inappropriate reporting as a reference.

45. Education and training resources and materials, including online tools, should reflect the methodological principles highlighted above. Together with examples of methodologically sound training practice and lessons learned, they should be shared locally, nationally, regionally and internationally. Dissemination channels comprise electronic channels, resource centres, databases, the organization of gatherings and other means.

46. Carrying out research and evaluation, and sharing results, contribute to learning from practice and experience and would support improvement of human rights training programming.

47. International training activities and exchanges could be promoted among media professionals.

An enabling environment

48. Human rights learning can take place effectively only in an enabling environment where human rights are practised. Accordingly, ensuring that media professionals and journalists can carry out their professional roles safely and effectively is of the utmost importance.

49. In that regard, the following strategies could be implemented:

(a) Enact and implement laws and policies ensuring freedom of information and protecting freedom of expression and opinion;

(b) Put in place laws and enforcement mechanisms to counteract hate speech and incitement to hatred;

(c) Train civil servants, in particular military and law enforcement personnel, on human rights standards regarding freedom of information, transparency, whistle-blower protection and the protection of journalistic sources, and the protection of journalists in all situations, including situations of armed conflict;

(d) Enact measures to ensure that marginalized and minority groups are able to enter and be retained in the journalistic field, with financial and organizational incentives for qualified journalists to assume leadership and management positions;

(e) Make funding for infrastructure and personnel available to community and public service broadcasting entities, to ensure their outreach, in particular to rural areas, minorities and indigenous populations;

(f) Organize competitions, awards, scholarships and prizes to encourage the recognition and celebration of human rights achievements in journalism.

3. Actors

50. Responsibility for the design and delivery of appropriate human rights education strategies and activities for media professionals and journalists is shared among multiple actors, owing to the complex training systems and to the different contexts, including:

(a) Undergraduate or graduate institutes or universities, as well as human rights institutes and UNESCO Chairs for human rights education;

(b) Unions and professional and accrediting organizations of media professionals and journalists;

(c) Public and private media enterprises and their leadership, in particular company board members and editors-in-chief;

(d) Relevant legislative bodies, including human rights and other parliamentary committees and advisory groups;

(e) National human rights institutions, such as ombudspersons and human rights commissions;

(f) National, regional and international media networks;

(g) Research institutions addressing journalism;

(h) National and local human rights resource and training centres;

(i) Non-governmental organizations and other civil society actors;

(j) International and regional intergovernmental organizations.

51. The implementation of the present Plan of Action will require the close collaboration of the above-mentioned actors.

52. Other stakeholders include relevant ministries, such as ministries of information, welfare, labour, justice, women and youth; the judiciary and the legislative branch of government; cultural, social, religious and community leaders; youth organizations; indigenous peoples and minority groups; and the business community.

53. Governments have the primary responsibility for ensuring that media professionals and journalists are protected through legislation and that norms relating to freedom of opinion and expression, the protection and safety of media professionals and journalists, access to information and the media, and non-discrimination and diversity within mass media outlets are implemented and enforced.

III. Process for national implementation

54. Infusing human rights education into the primary and secondary school systems and in higher education, and the human rights training of educators, civil servants, law enforcement officials and the military, as well as media professionals and journalists, require a comprehensive strategy which builds on the national context, priorities, capacity and existing efforts. Member States will need to cooperate closely with a range of stakeholders in fulfilling the strategy; the creation of a national coalition within governmental structures and beyond could facilitate the maximization of resources and avoid duplication of efforts.

55. Three steps are proposed for the national process of planning, implementing and evaluating action in relation to the Plan of Action, consistent with the strategy proposed in the plans of action for the first and second phases of the World Programme for Human Rights Education.

Steps for implementation

56. The steps to facilitate national planning, implementation and evaluation are outlined below. Such processes should be carried out with the involvement of all relevant national actors (see sects. II C.2 and D.3 above).

57. Step 1: Undertake an assessment study on progress made during the first[10] and second phases of the World Programme and a national baseline study on human rights training for media professionals and journalists. The studies could be conducted by a governmental coordinating department, or separate studies could be undertaken in each target area by the most relevant actor(s). The studies should be widely disseminated nationally. Relevant actions include:

(a) Analysis of the current status of implementation of the first and second phases of the World Programme:

(i) Keeping in mind the strategies mentioned in section II.C above concerning human rights education in the primary and secondary school systems, in higher education and in the training of educators, civil servants, law enforcement officials and the military, collect information on and analyse the following:

- Current situation of human rights education in the primary and secondary school systems and in higher education, as well as human rights training for educators, civil servants, law enforcement officials and the military, in particular initiatives undertaken during the first and second phases of the World Programme and their shortcomings and obstacles to their implementation;
- Actors involved;
- Existing policies and legislation;
- Resources and tools used;
- Lessons learned from the first and second phases.

The information collected and analysed can be contrasted with any baseline data collected during the first and second phases in order to determine progress made.

(ii) Assess the adequacy and effectiveness of existing human rights education initiatives and identify good practice;

(iii) Consider how to build on good practice and lessons learned, and also measures that are necessary to deal with shortcomings and obstacles.

(b) Analysis of the current situation of human rights training for media professionals and journalists:

(i) Keeping in mind the strategies mentioned in section II.D above, collect information on and analyse the following:

- Current situation of human rights training for media professionals and journalists, including existing initiatives, their shortcomings and obstacles to their implementation;
- Historical and cultural contexts that may influence such training;
- Existing policies and legislation;
- Experience, resources and tools existing at the local, national, regional and international levels;

[10] With regard to the first phase, see OHCHR/UNESCO, *Human Rights Education in Primary and Secondary School Systems: A Self-assessment Guide for Governments* (HR/PUB/12/8) (New York and Geneva, United Nations, 2012).

- Actors currently involved, including media associations, higher education institutions, governmental entities, national human rights institutions, research institutes, non-governmental organizations and other civil society actors;
- Complementary efforts, such as training programmes and university education on journalism ethics and work in conflict areas.

The information collected and analysed can be used as national baseline data.

(ii) Identify good practice and lessons learned;

(iii) Determine opportunities and limitations;

(iv) Consider how to build on advantages and lessons learned, and how to use opportunities, considering also measures that are necessary to deal with shortcomings and obstacles.

58. Step 2: Develop a national strategy to enhance the implementation of the first and second phases of the World Programme and to promote human rights training for media professionals and journalists. Building on step 1, relevant actions to be taken in close consultation with, and seeking the participation of relevant stakeholders, include:

(a) Defining the basic goals for implementation;

(b) Fixing objectives using the Plan of Action as a reference;

(c) Setting priorities on the basis of the findings of the studies, taking into account the most pressing needs and/or available opportunities;

(d) Focusing on interventions leading to impact, giving priority to measures that will secure sustainable change vis-à-vis ad hoc activities;

(e) Encouraging the building of alliances and synergies among different actors;

(f) Identifying:

(i) Inputs – allocation of available human, financial and time resources;

(ii) Activities – tasks, responsibilities, time frame and indicators;

(iii) Mechanisms for coordination of the national strategy;

(iv) Outputs, such as legislation, codes of conduct, educational materials, training programmes and non-discriminatory policies;

(v) Results to be achieved.

59. Step 3: Implement, monitor and evaluate the national strategy. Relevant actions include:

(a) Disseminating the national strategy among concerned institutions and stakeholders and implementing the planned activities in cooperation with them;

(b) Monitoring implementation with regard to the identified indicators, and issuing progress reports;

(c) Adopting self-evaluation and participatory independent evaluation methods and mechanisms to review implementation, and as a means to improve and strengthen activities;

(d) Acknowledging, disseminating and noting the achievement of results.

IV. National coordination and evaluation

60. At the national level, governments should identify a relevant department as a focal point for coordinating the development, implementation, monitoring and evaluation of the national strategy, working closely with the relevant ministries and all other national actors, in particular national human rights institutions and civil society. If governments have created or designated a unit within their structure responsible for coordinating implementation of human rights education initiatives under the first and/or second phase of the World Programme, that should be taken into consideration while planning for the third phase. Every country that has not already done so is also encouraged to identify and support a resource centre for human rights education, which will be responsible for research and for collecting and disseminating related initiatives and information, such as on good practice, materials and resources, and the training of trainers.

61. The national focal point should also cooperate with the national agencies responsible for drawing up country reports for submission to the United Nations human rights mechanisms, including the treaty bodies, special procedures and the universal periodic review mechanism, and to other international or regional intergovernmental bodies[11] to ensure that progress in human rights education under the present Plan of Action is included in those reports. It should also liaise with OHCHR and share information on national progress.

62. OHCHR will undertake a midterm evaluation in 2017, for which Member States will evaluate progress under the Plan of Action and submit related information to OHCHR. At the conclusion of the third phase, in early 2020, each country will evaluate its actions and submit a final national evaluation report to OHCHR. On the basis of those reports, OHCHR will prepare a final report for the Human Rights Council in 2020.

V. International cooperation and support

63. International cooperation and assistance is to be directed towards strengthening national capacities for human rights education and training in support of the national strategy. Owing to the cross-border nature of some journalism, such collaboration might also be directed towards efforts carried out at the regional and international levels.

64. United Nations human rights mechanisms, within their specific mandates, may support national human rights education efforts under the Plan of Action. United Nations treaty bodies, when examining State party reports, may review and advise on implementation of treaty provisions relating to human rights education. Thematic and country special procedures of the Human Rights Council may review and advise on human rights education progress within their specific mandates. National human rights education efforts may also be regularly reviewed in the context of the universal periodic review mechanism.

65. International cooperation and assistance may be provided by:

(a) The United Nations system, including its specialized agencies and the United Nations University;

[11] For instance, a specific UNESCO mechanism monitors implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms.

(b) Professional training institutions affiliated to the United Nations, such as those concerned with social welfare; medical and health services; drugs and trafficking prevention; refugees, migration and border security; conflict prevention and peacebuilding; and criminal procedure;

(c) The United Nations-mandated University for Peace;

(d) Other international intergovernmental organizations;

(e) Regional intergovernmental organizations;

(f) Relevant international and regional professional networks, associations and trade unions;

(g) International and regional networks of higher education institutions;

(h) International and regional non-governmental organizations;

(i) International and regional human rights resource and documentation centres;

(j) International and regional financial institutions, as well as bilateral funding agencies;

(k) Multilateral and bilateral development agencies.

66. It is essential that those actors collaborate closely in order to maximize resources, avoid duplication and ensure coherence for the implementation of the Plan of Action.

67. The above-mentioned organizations and institutions may:

(a) Support governments in the elaboration, implementation and monitoring of the national strategy;

(b) Provide support to other national actors involved, in particular national and local non-governmental organizations, professional associations, higher education institutions, national human rights institutions, and other civil society organizations;

(c) Facilitate information sharing at all levels by identifying, collecting and disseminating information on good practice, for example through databases and the awarding of prizes, as well as on available materials, and relevant institutions and programmes;

(d) Support existing networks of human rights education and training actors and promote the creation of new ones at all levels;

(e) Support effective human rights training, in particular for educators and trainers, and the development of related materials based on good practice.

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Items 2 and 3 of the provisional agenda
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Plan of Action for the third phase (2015–2019) of the World Programme for Human Rights Education

Report of the Office of the United Nations High Commissioner for Human Rights

Corrigendum

Summary

The last sentence *should read*

As of 4 July, OHCHR had received 30 replies with comments, which have been taken into consideration in the final text.

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Agenda items 2 and 3
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Factors that impede equal political participation and steps to overcome those challenges

Report of the Office of the United Nations High Commissioner for Human Rights*

Summary

This study examines the human rights framework relating to participation in political and public affairs. Discrimination against women, indigenous peoples, minorities, persons with disabilities, human rights defenders and other marginalized groups may prevent the full, effective and equal enjoyment of the rights to participate in political and public affairs. The study identifies some of the major barriers to equal participation and makes recommendations concerning measures that could be taken to overcome these challenges.

* The footnotes to the present report are circulated as received, in the language of submission only.

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I. Introduction

1. In paragraph six of its resolution 24/8, the Human Rights Council requested that the Office of the High Commissioner for Human Rights prepare a study on factors that impede equal political participation and on steps to overcome these challenges. The resolution asks for the work of the special procedures, the treaty bodies and other international human rights mechanisms to be taken into account in the study.

2. Political and public participation rights play a crucial role in the promotion of democratic governance, the rule of law, social inclusion and economic development, as well as in the advancement of all human rights. The right to directly and indirectly participate in political and public life is important in empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalization and discrimination. Participation rights are inextricably linked to other human rights such as the rights to peaceful assembly and association, freedom of expression and opinion and the rights to education and to information.

3. Obstacles to equal political and public participation exist in many contexts. These barriers may include direct and indirect discrimination on grounds such as race, colour, descent, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, disability, nationality or other status. Even when there is no formal discrimination in connection with political or public participation, inequalities in access to other human rights may impede the effective exercise of political participation rights.

4. International human rights mechanisms have observed that women, indigenous peoples, minorities, persons with disabilities, human rights defenders, non-citizens and other marginalized or excluded individuals and groups are frequently unable to fully participate in political and public affairs on an equal basis. This disadvantage is heightened where multiple or intersecting grounds of discrimination are involved.[1]

5. The present study will begin with an overview of the scope of participation rights in international law. It will then look at restrictions on political and public participation rights and at discrimination as major barriers to equal participation. The concluding section of the study suggests some measures that could be taken to overcome the obstacles to equal political and public participation that have been identified.

II. The scope of rights to participate in political and public affairs

6. The right to participate on a basis of equality in public and political life is a central feature of the concept of inclusive democracy.[2] The effective participation of all individuals and groups in political and public affairs underpins the realization of human rights and forms a central component of rights-based strategies aimed at eradicating discrimination and inequalities (A/HRC/13/23, para. 28).

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[1] See, for example, A/HRC/13/23, para. 56; Committee on the Elimination of Discrimination against Women, General Recommendation No. 28 (2010), para. 18; and Committee on the Elimination of Racial Discrimination, General Recommendation No. 25 (2000).

[2] See the Universal Declaration of Human Rights, article 21; Human Rights Committee, General Comment No. 25 (1996), para. 21; and A/HRC/22/29, paras. 7–9.

7. Article 25 of the International Covenant on Civil and Political Rights, as well as the interpretive General Comment and jurisprudence adopted by the Human Rights Committee, define the obligations of States parties in connection with the right to take part in the conduct of public affairs, vote and be elected at genuine periodic elections, and have equal access to public service positions. Conditions and restrictions on direct and indirect political and public participation are permitted under international human rights law only when these are objective, reasonable and non-discriminatory.[3]

8. A number of other international human rights instruments also contain specific guarantees in relation to equal rights to political and public participation. These include the Universal Declaration of Human Rights (art. 21); the International Covenant on Economic, Social and Cultural Rights (art. 8); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5 (c)); the Convention on the Elimination of All Forms of Discrimination Against Women (arts. 7 and 8); the Convention on the Rights of the Child (art. 15); the Convention on the Rights of Persons with Disabilities (arts. 4 (3), 29, 33 (3)); the International Convention on the Protection of All Migrant Workers and Members of Their Families (arts. 41 and 42); the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (art. 2 (2)); the United Nations Declaration on the Rights of Indigenous Peoples (arts. 5 and 18); the Durban Declaration and Programme of Action (art. 22); the Declaration on the Rights to Development (arts 1.1, 2 and 8.2); and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (art. 8). At the regional level, equal political rights are protected in several instruments, including Protocol No. 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 3), the American Convention on Human Rights (art. 23) and the African Charter on Human and Peoples' Rights (art. 13).

A. Electoral rights: the right to vote and to stand for elective office

9. The principle of universal and equal suffrage for all adult citizens constitutes one of the cornerstones of modern democracies. The importance of inclusivity, political pluralism and equality is underlined in Article 25 (b) of the International Covenant on Civil and Political Rights, which recognizes the right of every citizen "[t]o vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage".

10. At the time that the Covenant was adopted, most States agreed that the scope of "universal" suffrage could be subjected to reasonable restrictions that allowed certain individuals or groups such as children, non-citizens, persons lacking legal capacity, prisoners and convicted felons to be deprived of political rights. More recently, however, human rights mechanisms have stated that wide-reaching restrictions or deprivations of electoral rights may not be compatible with guarantees of equality and non-discrimination under international law.[4]

11. The electoral rights guaranteed in article 25 (b) cover direct and indirect forms of political participation in all levels of government. Direct participation includes casting a

[3] Human Rights Committee, General Comment No. 25, paras. 3–4.

[4] See, for example, Committee on the Rights of Persons with Disabilities, General Comment No. 1 (2014); Human Rights Committee, Communication No. 1410/2005; CCPR/C/USA/CO/3 and Rev.1; and the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, article 42. See also Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, 2nd rev. ed. (Kehl am Rhein, Engel, 2005), p. 576.

vote in a referendum or in a popular assembly with a decision-making mandate or participating in public affairs as an elected representative. Indirect participation refers to the election of freely chosen representatives in genuine, periodic elections based on universal suffrage and held by secret ballot, as well as influencing decision-making through public debate, within civil society organizations or through dialogue with elected representatives.

12. The Human Rights Committee has interpreted the obligations of States parties under article 25 (b) as requiring that positive measures be taken to ensure the full, effective and equal enjoyment of electoral rights as well as the freedoms of expression, information, assembly and association which are "essential conditions for the effective exercise of the right to vote and must be fully protected".[5]

13. Human rights mechanisms have emphasized that appropriate steps must be taken by Governments to promote and protect voting rights without any discrimination. These measures may include the facilitation of voter registration and the provision of electoral information and voting papers in a range of accessible formats and languages.[6] Steps should also be taken to ensure that the rights of persons with disabilities, people with reduced mobility and people with limited freedom of movement are taken into account in the design and implementation of voting systems.[7] Administrative restrictions, such as proof of residence or identity documentation requirements that might directly or indirectly prevent certain groups of citizens from exercising voting rights, should be removed.[8]

14. With regard to the implementation of the equal right and opportunity to stand for public office, which ensures that electors have a free choice of candidates, the Human Rights Committee has noted that "[a]ny restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria".[9] Positive measures must be taken by States to ensure that the criteria for candidacy are reasonable and non-discriminatory. Discrimination against eligible candidates for public office on grounds such as education, residence or descent or political affiliation is prohibited.[10]

15. In some contexts, candidates for elective office may face discrimination, including harassment and violations of rights to freedom of assembly and association, violence and even criminal law sanctions. These forms of discrimination have been observed in relation to candidates for elective office who advocate for the rights of women, trade unions, minorities, lesbian, gay, bisexual, transgender and intersex persons and other marginalized groups (see A/HRC/23/50, paras. 64–65, and A/HRC/26/29).

16. Any abusive or discriminatory interference with the registration of voters or candidates for public office and other elements of the electoral process should be prohibited by criminal law.[11] Effective access to justice and appropriate remedies should also be guaranteed for people who have been deprived of their political rights.[12]

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[5] Human Rights Committee, General Comment No. 25, paras. 12, 26 and 27.

[6] *Ibid.*, paras 11–12 and 20.

[7] Committee on the Rights of Persons with Disabilities, General Comment No. 1.

[8] Human Rights Committee, General Comment No. 25, para. 11.

[9] *Ibid.*, para. 15.

[10] *Ibid.*

[11] *Ibid.*, para. 11.

[12] *Ibid.*, paras. 10–13.

B. Participation in the conduct of public affairs

17. The Human Rights Committee has interpreted "[t]he conduct of public affairs" in article 25 (a) of the International Covenant on Civil and Political Rights as "a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration and the formulation and implementation of policy at international, national, regional and local levels." The means through which the right to participate in the conduct of public affairs is exercised by individual right holders should be established in national constitutions and other laws.[13]

18. The Committee on the Elimination of Discrimination against Women has also characterized political and public participation as a "broad concept", which refers to the exercise of political power and the formulation of policy at all levels. The Committee notes that the right includes participation in civil society through public boards and local councils, political parties, trade unions, professional or industry associations, women's organizations, community-based organizations and other organizations concerned with public and political life.[14]

19. The Independent Expert on minority issues stated in her 2010 report to the Human Rights Council that public participation "comprises the right to take part in the conduct of public affairs, the right to vote and to be elected, and to have access to public services. Moreover, it entails participation in governmental bodies, the judiciary and other agencies of the criminal justice system, decentralized and local forms of government, consultation mechanisms, as well as through cultural or territorial autonomy arrangements" (A/HRC/13/23, para. 32).

20. The Independent Expert on minority issues further stated that for public and political participation to be considered effective, positive measures must be taken by States to enable full and equal political and public participation by all social groups (*ibid.*, paras. 52–53). The impact of these measures should be assessed in relation to the individuals and groups concerned as well as on the society as a whole, and "States must also ensure that the participation of minority representatives has a substantial influence on decisions which are taken" (*ibid.*, para 53).

21. Increasingly, international human rights mechanisms are acknowledging the rights of all people to be fully involved in and to effectively influence public decision-making processes that affect them. These public participation rights encompass the rights to be consulted at each phase of legislative drafting and policymaking, to voice criticism and to submit proposals aimed at improving the functioning and inclusivity of all governmental bodies engaged in the conduct of public affairs.[15] This wider interpretation of the right to political and public participation is particularly apparent in relation to the rights of persons with disabilities and in connection with indigenous peoples, minorities and the role of civil society organizations.[16]

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[13] *Ibid.*, para. 5.

[14] CEDAW, General Recommendation No. 23 (1997), para. 5.

[15] In addition to the jurisprudence of the Human Rights Committee see, for example, Committee on Economic, Social and Cultural Rights, General Comment No. 21 (2009), para. 55 (e).

[16] See, for example, the United Nations Declaration on the Rights of Indigenous Peoples, article 19; Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, article 2; A/HRC/18/42; A/66/288, paras. 77–86; A/HRC/19/36; and A/HRC/16/44/Add.2, para. 106.

C. Human rights linked to participation: the freedoms of assembly, association and expression and the rights to information and education

22. All human rights are indivisible, interrelated and interdependent. There are, however, several human rights that play a direct role in supporting and enabling equal and inclusive participation in political and public affairs.[17] The freedoms of peaceful assembly and association, opinion and expression and the rights to information and education are closely linked to the realization of rights to participate in political and public life. Discrimination and other barriers to the full realization of these supporting rights will, therefore, undermine efforts to ensure the equal enjoyment of other political and public participation rights.

23. The freedom of peaceful assembly includes the right to hold meetings, sit-ins, strikes, rallies, events or protests and encompasses virtual assemblies that take place online.[18] Peaceful assemblies "play a vibrant role in mobilizing the population and in formulating grievances and aspirations, facilitating the celebration of events and, importantly, in influencing States' public policy" (A/HRC/20/27, para. 24).

24. Freedom of association covers the right to form and join organizations, political parties, trade unions and other civil society associations concerned with political and public affairs.[19] The important role of civil society actors – particularly those that advocate for human rights, including the rights of minorities or marginalized groups – in the promotion and protection of all human rights is acknowledged in a number of human rights instruments as well as in the practice of the international human rights mechanisms.[20] It has been observed that the activities of civil society organizations and associations concerned with issues of public interest have been subjected to discriminatory restrictions related to registration requirements or sources of financing (see A/HRC/23/39 and A/HRC/26/29).

25. Restrictions on freedoms of peaceful assembly and association are frequently tightened during electoral periods or in situations of political transition or social conflict. As the Special Rapporteur on freedom of peaceful assembly and association pointed out, these contexts may result in prohibitions on peaceful assembly and association as well as the harassment and intimidation of individuals engaged in civic activism (A/HRC/20/27, paras. 22–23).

26. The right to freedom of expression is guaranteed in article 19 of the International Covenant on Civil and Political Rights. This right encompasses the freedom to debate

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[17] Human Rights Committee, General Comment No. 25, para. 8: "Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association."

[18] Human Rights Committee, General Comment No. 34 (2011), para. 12; and A/66/290.

[19] See for example, International Covenant on Civil and Political Rights, article 22; International Covenant on Economic, Social and Cultural Rights, article 8 (1)(a); article 7 (c) of the Convention on the Elimination of All Forms of Discrimination against Women; and International Labour Organization (ILO) Convention concerning Freedom of Association and Protection of the Right to Organise No. 87 (1948).

[20] See Human Rights Council resolutions 15/21 (2010), 21/16 (2012) and 24/5 (2013); and Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 2011, available from http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CommentarytotheDeclarationonHumanRightsDefenders.aspx.

public affairs, hold peaceful assemblies and meetings, criticize and oppose government actions, publish political material, campaign for election and advertise political ideas.[21]

27. Freedom of expression also includes the right to seek and receive State-held information, which should be provided without the need to prove a direct interest or personal involvement.[22] The right to freedom of expression has been read as entailing positive obligations for States to publish and widely disseminate documents and information of significant public interest such as the content of policies and decisions affecting the public, or operational information concerning the functioning of public bodies (see E/CN.4/2000/63, para. 44). There are also positive obligations to guarantee easy, prompt, effective and practical access to government information.[23]

28. The existence of independent and diverse media sources, able to comment on and inform public opinion on political issues without censorship or restraint, has been recognized by international human rights mechanisms as an essential underlying guarantee that supports the right to political participation.[24] The public also has a right to receive media output free from any interference.[25]

29. The right to education is recognized in virtually all international and regional human rights instruments. The role of the right to education in ensuring access to other human rights, including rights to participate in political and public affairs, has been repeatedly emphasized. Article 13 (1) of the International Covenant on Economic, Social and Cultural Rights provides that one of the objectives of education is to "enable all persons to participate effectively in a free society". The Committee on Economic, Social and Cultural Rights notes in its General Comment No. 13 (1999) that the realization of the right to education is essential for the promotion of human rights and democracy in that it enables all people to fully participate in their communities.

30. The mutually reinforcing nature of the human rights closely linked to political and public participation rights means that any measures directed towards guaranteeing equality in relation to electoral and other public participation rights must also be accompanied by strategies to ensure the full implementation of these supporting human rights.[26]

III. Restrictions on political participation rights

31. The Human Rights Committee has noted on several occasions that the right to vote and to stand for election within the meaning of article 25 of the International Covenant on Civil and Political Rights "is not an absolute right and that restrictions may be imposed on it provided they are not discriminatory or unreasonable".[27] With regard to other political rights, such as the freedoms of assembly and association, opinion and expression, any restrictions must be prescribed by law, necessary and proportionate in the circumstances. It has been emphasized by several international human rights mechanisms that restrictions should remain the exception rather the rule, and that these limitations should never impair the essence of the right at issue (A/HRC/20/27 and A/66/290).

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[21] Human Rights Committee, General Comment No. 25, para. 26, and General Comment No. 34; and A/66/290.

[22] See Human Rights Committee, Communication No. 1470/2006, paras 7.4–7.6.

[23] Human Rights Committee, General Comment No. 34, para. 19.

[24] Human Rights Committee, General Comment No. 25, para. 25.

[25] Human Rights Committee, General comment No. 34, para. 13.

[26] Human Rights Committee, General Comment No. 25, paras. 12, 26 and 27.

[27] Human Rights Committee, Communication No. 932/2000. See also Communications No. 2155/2012, No. 1744/2007, No. 500/1992, No. 44/1979; and General Comment No. 25, paras. 4, 10, 11 and 14.

A. Unreasonable and discriminatory restrictions on political participation rights

32. Illegitimate restrictions on rights to political and public participation constitute an important barrier to the equal exercise of political rights. In its General Comment No. 25, the Human Rights Committee stated that it would, for example, be "unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements" and that membership of a political party "should not be a condition of eligibility to vote, nor a ground of disqualification" (para. 10).

33. Limiting political participation on the grounds of intellectual or psychosocial impairment, the application of linguistic requirements for candidates for public office or the automatic disenfranchisement of detainees, convicted felons or people under guardianship have also been found by human rights mechanisms to constitute unreasonable and discriminatory restrictions on the exercise of political and public participation rights.[28]

B. Non-citizens and political participation

34. Article 25 of the International Covenant on Civil and Political Rights applies only to citizens. States are free to establish the requirements for the granting of citizenship; however, under international human rights law, these conditions should be non-discriminatory, objective and reasonable.[29]

35. International human rights mechanisms have reiterated that overly restrictive and/or discriminatory requirements for obtaining citizenship may impede effective participation in political and public affairs (see A/HRC/17/33, para. 65, and CERD/C/EST/CO/7). The mechanisms have called on States to take measures to ensure that citizenship is not unduly denied to minorities, long-term residents, foreign family members of citizens, stateless persons and other groups.[30] States have also been requested to remove restrictions on political rights based on the mechanism through which citizenship was acquired – by naturalization, by descent or by birth (see CCPR/CO/69/KWT and CERD/C/60/CO/11).

36. Examples of limited electoral rights being extended to non-citizens exist in a growing number of States (see CMW/C/AZE/CO/1, CMW/C/BOL/CO/1, CERD/C/BEL/CO/15, CERD/C/ISL/CO/18, CERD/C/CZE/CO/7 and A/HRC/13/23). The Independent Expert on minority issues has called on States to "consider allowing non-citizens belonging to minorities to vote, stand as candidates in local elections and be members of the governing boards of self-governing bodies, while making sure that access to citizenship is regulated in a non-discriminatory manner" (A/HRC/13/23, para. 64).

37. In addition to ensuring that the conditions for obtaining citizenship are not directly or indirectly discriminatory, States must also take measures to guarantee that non-citizens, including migrants (regardless of their migration status), non-permanent residents, refugees,

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[28] See Committee on the Rights of Persons with Disabilities, General Comment No. 1; CCPR/C/USA/CO/3 and Rev.1; and *Case of Söyler* v. *Turkey*, European Court of Human Rights, Application No. 29411/07, Decision of 17 September 2013; A/66/290. See also Nowak (footnote 4 above), p. 577, and Sarah Joseph *et al.*, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary* (Oxford University Press, 2004).

[29] See Committee on the Elimination of Racial Discrimination, General Recommendation No. 30 (2004), paras. 3–4, and A/HRC/17/33, para. 65.

[30] See Committee on the Elimination of Racial Discrimination, General Recommendation No. 30; A/HRC/13/25, para. 25; A/HRC/17/33, paras. 67 and 70. See also CERD/C/JOR/CO/13-17, para. 13, and CERD/C/THA/CO/1-3.

stateless persons and asylum seekers enjoy other participation rights such as the freedoms of association and peaceful assembly, expression and opinion, and the rights to information and education.[31] The Human Rights Committee has reiterated that protections for the rights of persons belonging to national or ethnic, religious and linguistic minorities under article 27 of the International Covenant on Civil and Political Rights apply to both non-citizens and citizens, except for those rights that are expressly limited to citizens.[32]

38. The Special Rapporteur on the rights to freedom of peaceful assembly and association argues that citizenship-related limitations on voting and other electoral rights make the promotion and protection of associated rights to political and public participation even more important. The Special Rapporteur states that "[a]n individual's lack of citizenship or legal status does not mean that she or he should have no voice whatsoever in the political, economic or social affairs of her or his country of residence … groups that are disenfranchised from mainstream political activities, such as voting and holding office, have an even greater need for alternative means to participate in the public sphere" (see A/HRC/26/29, para. 25).

39. The former Special Rapporteur on the human rights of migrants emphasized that while steps should be taken to facilitate the acquisition of formal citizenship, in order to be effective, a range of other measures to enable full participation in political life should complement these. The Special Rapporteur notes that "groups of migrant origin are frequently underrepresented in the political process even when most of their members are nationals" (A/HRC/17/33, para. 65).

40. International human rights mechanisms have also repeatedly called on States of origin to promote and facilitate participation in public and political life by citizens residing abroad through the adoption of specific legislative and awareness-raising programmes (see CMW/C/CHL/CO/1, para. 48, and A/HRC/20/24/Add.1, para. 72 (f)).

IV. Equality in the exercise of political participation rights

41. Non-discrimination and equality are fundamental principles of international human rights law and they are essential to the enjoyment of all human rights. Exclusion, marginalization and discrimination cannot be effectively addressed unless all people are provided with meaningful opportunities to exercise their rights to participate in political and public life and other related rights. Discriminatory restrictions on political and public participation rights serve to further marginalize and exclude different groups by depriving them of avenues for challenging and redressing the disadvantages they face (see A/HRC/26/29, para. 15).

42. Each of the core international human rights treaties explicitly prohibits both formal (*de jure*) and substantive (*de facto*) discrimination.[33] Discrimination has been defined as "any distinction, exclusion, restriction or preference which is based on any ground such as

[31] See Committee on the Elimination of Racial Discrimination, General Recommendation No. 30(2004), para. 35; International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families, articles 26, 40 and 41; A/58/40(Vol. I), para. 79; CERD/C/JOR/CO/13-17, para. 13; CERD/C/CZE/CO/7; and CERD/C/EST/CO/7.

[32] See Human Rights Committee General Comment No. 23 (1994), para. 5.1.

[33] See, for example, International Covenant on Civil and Political Rights (arts. 2 and 26); International Covenant on Economic, Social and Cultural Rights (art. 2); International Convention on the Elimination of All Forms of Racial Discrimination (art. 1); Convention on the Elimination of All Forms of Discrimination Against Women (art. 1); and Convention on the Rights of Persons with Disabilities (art. 2).

race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".[34]

43. Effective participation in public and political life is limited or prevented by formal and substantive discrimination on any of the above-mentioned grounds. The category of "other status" is non-exhaustive and has been interpreted by human rights mechanisms as including discrimination on the grounds of age, gender identity, disability, nationality and sexual orientation.[35] For example, human rights mechanisms have noted that criminal law sanctions that target lesbian, gay, bisexual and transgender persons, as well as discriminatory restrictions on their freedoms of peaceful assembly, association and expression result in severe limitations on their participation in political and public life (A/HRC/26/29).

44. Intersecting and multiple forms of discrimination have an especially devastating effect on the free exercise of participatory rights. International human rights mechanisms have noted cases of discrimination against Roma women who have been denied access to political and public participation rights on the grounds of their minority status, citizenship and gender.[36] The situation of indigenous people with disabilities provides another example of the negative impact of intersectional discrimination on political and public participation rights (E/C.19/2013/6). It has been noted that "[t]hese groups should not be viewed as monolithic or discrete … to understand the impact of discrimination on marginalized groups, it is important to recognize the different life experiences of the groups and individuals within the groups" (A/HRC/26/29, para. 13).

45. The obligation to prohibit and redress discrimination applies to formal and substantive, direct and indirect forms of discrimination in the public and private spheres. The Committee on Economic, Social and Cultural Rights notes that "[e]liminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations".[37] This means that, where necessary, States are obliged to adopt temporary special measures to attenuate or suppress the conditions that perpetuate substantive inequalities.[38] These temporary special measures could include the creation of quotas to enable underrepresented groups such as women, indigenous peoples, minorities or people with disabilities to exercise their rights to equal political and public participation within legislative and other public decision-making bodies.[39]

46. Violence that is directed against people on any prohibited grounds has also been characterized by the international human rights mechanisms as a form of discrimination that involves the violation of multiple human rights, including the rights to participate in

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[34] Human Rights Committee, General Comment No. 18 (1989), para. 7.

[35] Committee on Economic, Social and Cultural Rights, General Comment No. 20 (2009).

[36] See *ibid.*, para. 17; Committee on the Elimination of Racial Discrimination, General Recommendation No. 25; and A/60/38, para. 332. Indeed, even when Roma women hold citizenship, there are cases in which they have been denied political rights due to their gender and minority status.

[37] Committee on Economic, Social and Cultural Rights, General Comment No. 20, para. 8. The Committee on the Elimination of Racial Discrimination has held that "[t]o treat in an equal manner persons or groups whose situations are objectively different will constitute discrimination in effect, as will the unequal treatment of persons whose situations are objectively the same", General Recommendation No. 32 (2009), para. 8.

[38] See the decision of the Human Rights Committee in Communication No. 943/2000 (2004).

[39] See A/HRC/23/50; A/HRC/13/25, para. 10; and Committee on the Rights of Persons with Disabilities, General Comment No. 1.

political and public affairs (see A/47/38(Supp), para. 9, and A/HRC/20/33, paras. 9–10). Different forms of violence, such as stigmatization, sexual harassment and intimidation, may be used to target human rights defenders and marginalized groups in order to prevent them from effectively exercising their rights to freely participate in political and public affairs (see A/HRC/26/29).

A. Women and equal political participation

47. The equal rights of women to participate in the public and political life of their countries are recognized in a number of international human rights instruments (see A/HRC/23/50, paras. 14 and 16). The most detailed explanation of the scope of women's political and public participation rights is provided in General Comment No. 23 of the Committee on the Elimination of Discrimination against Women, which interprets articles 7 and 8 of the Convention on the Elimination of All Forms of Discrimination against Women.

48. Article 7 of the Convention states that women's right to equal participation in political and public life encompasses the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; to participate in the formulation and implementation of government policy; to hold public office and to perform public functions at all levels of government; and to participate in non-governmental organizations and associations concerned with the public and political life of the country.

49. Article 8 refers to the obligations of States to take all appropriate measures to provide equal opportunities to women to represent their governments at the international level and to participate in the work of international organizations.

50. In its General Comment No. 23, the Committee on the Elimination of Discrimination against Women notes the slow progress in achieving gender equality and identifies a number of barriers to the equal political participation of women stating that "societies in which women are excluded from public life and decision-making cannot be described as democratic" (para. 14).

51. The Committee also observes that traditional cultural values and religious beliefs, an absence of social services, men's failure to equally share caring and household tasks, violence against women, women's economic dependence on men, gender stereotyping that offers a narrow vision of "women's political concerns" and the low level of representation of women in the professions from which politicians are recruited, have all played a significant part in the systematic exclusion of women from public life (paras. 10–12).

52. Women's rights to vote and to stand for elected office have been subjected to restrictions or conditions that either do not apply to men or that indirectly discriminate against women. Examples of these kinds of discriminatory restrictions include limiting voting or representational rights to individuals who have a specific level of education, who possess a certain amount of property or who are literate (A/HRC/23/50).

53. In addition, prevailing negative sociocultural stereotypes concerning women's political participation and discrimination against women in the family and community, including limitations on women's freedom of movement, assembly and association, may prevent women from exercising their rights to vote, to run for public office and to take an active part in political and public life.[40]

[40] Committee on the Elimination of Discrimination against Women, General Recommendation No. 23, paras. 10–12.

54. Institutional factors also contribute to the underrepresentation of women in political and public life at all levels, from local to international. For example, women are still rarely appointed to senior positions in government or within trade unions or political associations, and political parties often fail to nominate or provide financial assistance to female candidates, thereby denying them genuine opportunities to be elected. The global average number of women in national parliaments is 21 per cent, there are even fewer women Heads of State or Government and women account for only 27 per cent of judges worldwide (A/HRC/23/50, paras. 19, 21 and 22).

55. The Committee on the Elimination of Discrimination against Women and the Working Group on the issue of discrimination against women in law and in practice have made a number of recommendations addressed to States and other actors including political parties, civil society, trade unions and international organizations, on the measures that they should take to overcome impediments to women's equal public and political participation. These recommendations focus on the removal of barriers to participation, such as those resulting from violence and other types of discrimination, illiteracy, language, poverty and restrictions on women's freedom of movement and autonomy.

56. The Committee and the Working Group have reiterated that the positive obligations to promote the equal participation of women in all fields of public and political life, including in the formulation of government policy, may extend to the adoption of temporary special measures.[41] In this regard, the Working Group on the issue of discrimination against women in law and in practice observed in its 2013 report that "[t]he use of quotas to advance women's political representation and participation has increased in the past three decades and produced significant results when properly adapted to specific electoral and political systems" (A/HRC/23/50, para. 38).

57. States have adopted different forms of quota systems including political party and legislative quotas and reserved seats. However, if these measures are adopted in isolation and without adequate adaptation to the local context, they will usually not be sufficient to ensure equality in political and public participation.[42] The positive impact of increasing women's representation in public and political life will not be felt if women are not also empowered to actively participate in political discussions and to exercise a real influence in decision-making (A/HRC/23/50).

58. The Committee on the Elimination of Discrimination against Women and the Working Group on the issue of discrimination against women in law and in practice have also emphasized that the recruitment processes used by government authorities and political associations should be open and transparent. Both mechanisms have further recommended that measures be taken by States to ensure that political parties and trade unions do not engage in discrimination against women, and to encourage them to promote and protect women's political and public participation rights. The importance of reliable monitoring mechanisms and the systematic collection of data on progress in achieving gender equality within public and political institutions has also been underscored.[43]

59. The Committee on the Elimination of Discrimination against Women has emphasized the obligations of States parties to adopt appropriate legislation, policies and other measures to effectively prevent, eliminate and remedy discrimination against women,

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[41] Committee on the Elimination of Discrimination against Women, General Recommendation No. 25 (2004).

[42] Homa Hoodfar and Mona Tajali, *Electoral Politics: Making Quotas Work for Women* (London, Women Living under Muslim Laws, 2011).

[43] A/HRC/23/50; and Committee on the Elimination of Discrimination against Women, General Recommendation No. 23.

including intersectional forms of discrimination, in all areas of public and private life.[44] Violence and all other forms of discrimination against women and women's rights defenders should be promptly and efficiently investigated, prosecuted and remedied (A/HRC/23/50, paras. 64–65).

B. Racism, racial discrimination, xenophobia and related intolerance and equal political participation

60. Article 5 (c) of the International Convention on the Elimination of All Forms of Racial Discrimination provides that States parties must undertake to prohibit and eliminate racial discrimination in the area of "[p]olitical rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service". In its General Recommendation No. 20 (1996), the Committee on the Elimination of Racial Discrimination stated that the onus is on States to demonstrate that any restrictions on the rights contained in article 5 of the Convention are not discriminatory in their purpose or effect.

61. The Durban Declaration and Programme of Action (DDPA) draws attention to the fact that racism and racial discrimination limit opportunities for political and public participation. In this regard, it urges States and encourages the private sector and international financial and development institutions, such as the World Bank and regional development banks, to promote the participation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance in economic, cultural and social decision-making at all stages, particularly in the development and implementation of poverty alleviation strategies, development projects, and trade and market assistance programmes. The DDPA further urges States to promote, as appropriate, the effective and equal access of all members of the community, especially those who are victims of racism, racial discrimination, xenophobia and related intolerance, to decision-making processes in society at all levels and, in particular, at the local level (DDPA, paras. 99, 115, 210 and 213).

62. Along with the strategies laid out in the DDPA, international human rights mechanisms have also called on parliaments, political parties and civil society organizations to actively combat the "political normalization and exploitation" of racial discrimination within their activities (E/CN.4/2006/54). In this context, it should be noted that article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination obliges States Parties to condemn all propaganda and any organizations that are based on ideas or theories of the superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form.

C. Indigenous peoples and equal political participation

63. Indigenous peoples are among some of the most excluded, marginalized and disadvantaged social groups. Discrimination against indigenous peoples has had a negative impact on their ability to freely determine the direction of their own communities or to participate in decision-making on matters that affect their human rights.

[44] Committee on the Elimination of Discrimination against Women, General Recommendation No. 28.

64. The rights of indigenous peoples to participate in political and public life, including through the maintenance and creation of indigenous forms of governance, are well established in international law.[45] The ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) contains specific provisions on the participation of indigenous peoples in all areas of public and political life.

65. The Expert Mechanism on the Rights of Indigenous Peoples notes that "[m]ore recently, the indigenous-rights discourse has seen increased focus on rights not only allowing indigenous peoples to participate in decision-making processes affecting them, but to actually control the outcome of such processes".[46]

66. The United Nations Declaration on the Rights of Indigenous Peoples contains more than 20 provisions related to the right of indigenous peoples to fully participate in political and public decision-making. Under articles 5, 18 and 19 of the Declaration, indigenous peoples have the right to participate in political life. The Declaration also stipulates that indigenous peoples have the right to self-determination and in exercising this right, they have the right to self-government in their internal affairs and the right to develop and maintain their own decision-making institutions (see articles 2–5 and 18).

67. Specific positive duties for States to ensure the effective participation by indigenous peoples in decision-making include those of consultation and cooperation with indigenous peoples and, in particular, the need to seek the "free, prior and informed consent" of indigenous peoples in relation to legislative and administrative measures that may affect them (art. 19).

68. In addition to the guarantees of equal participation for indigenous peoples in the broader public life of the State and in decision-making that specifically affects their rights, the participatory rights of indigenous peoples also have an "internal" dimension. This aspect relates to the promotion and protection of indigenous peoples' exercise of autonomy and self-government and to the maintenance of their own legal and justice systems (see A/65/264, paragraph 46).

69. The Secretary-General of the United Nations has made a number of recommendations addressed to the United Nations on the ways in which the Organization could better promote the participation of indigenous peoples' representatives in its different decision-making bodies as called for in article 41 of the United Nations Declaration on the Rights of Indigenous Peoples. The Secretary-General's report on ways and means of promoting participation at the United Nations of indigenous peoples' representatives on issues affecting them discusses barriers to indigenous participation within the United Nations system and observes that these include the limited resources of many indigenous groups and the fact that accreditation requirements for consultative status do not recognize the specificities of indigenous peoples' representatives who might not be organized as non-governmental organizations and often have their own governance bodies and institutions (A/HRC/21/24).

D. Minorities and equal political participation

70. Persons belonging to minority groups remain underrepresented in the political and public processes and governing institutions in most countries "because they are either actively and intentionally restricted from participation, inadvertently disadvantaged by a variety of laws or policies, or because there is a lack of political will in the larger society to

[45] See Human Rights Committee, General Comment No. 23, para. 7.

[46] Expert Mechanism on the Rights of Indigenous Peoples, Advice No. 2 (2011), para. 2.

dismantle structural barriers to the full equal participation of minorities (A/HRC/13/25, para. 6).

71. Inspired by article 27 of the International Covenant on Civil and Political Rights, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities sets out the rights of minorities and establishes that States have an obligation to respect, protect and promote those rights. It stipulates in its article 2.2 that "[p]ersons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life". This provision has been interpreted as including the rights relating to election and to being elected, the holding of public office and full participation in other political and administrative activities as well as through minority associations and free contacts both inside the State and across borders (E/CN.4/Sub.2/AC.5/2005/2, paras. 36–37).

72. In 2009, the Forum on Minority Issues addressed the question of the effective political participation of minorities and adopted a set of recommendations aimed at promoting the full participation of minorities in public and political life (A/HRC/13/25, para. 10). These recommendations include effective efforts by Governments to end discrimination through, *inter alia*, the creation of independent monitoring and complaints mechanisms to prevent discrimination in voting, vote fraud, intimidation and similar acts that inhibit effective participation in electoral activities.

73. Other mechanisms to support minority political participation involve the institution of proportional representation systems, the adoption of temporary special measures to encourage political parties to provide genuine opportunities to candidates from minorities, and the enactment of positive measures to overcome specific difficulties such as illiteracy, language barriers, poverty or impediments to freedom of movement.

74. More wide-ranging measures are also recommended, such as policy statements from Governments on the values of diversity and non-discrimination, and the development of a national plan of action in association with minorities, which incorporates educational campaigns and temporary special measures to increase participation by minorities in public administration and other areas of public life.

75. The Forum on Minority Issues further agreed that consideration should be given, in appropriate circumstances, to mechanisms for devolving or sharing political power to enable minorities to have a significant and direct impact on matters that directly affect them. It was emphasized, however, that access to meaningful political power should not be dependent on one's status as a member of a minority group.

76. In 2012, the Secretary-General established the United Nations network on racial discrimination and protection of minorities. The network, which is coordinated by OHCHR, aims to enhance dialogue and cooperation between relevant United Nations departments, agencies, programmes and funds. During its first year of operation, the network developed a guidance note for the United Nations system on how to address racial discrimination and the protection of minorities in line with the Universal Declaration of Human Rights and other key standards, drawing from effective practices.[47] The guidance note and the action plan that was developed to facilitate its implementation highlight the need for institutional reforms that advance participation by minorities in decision-making and political processes, including within peace negotiations, transitional justice processes, environmental decision-making, electoral processes and in constitution-making.[48]

[47] Guidance Note of the Secretary-General on Racial Discrimination and the Protection of Minorities, March 2013.

[48] *Ibid.*

E. Persons with disabilities and equal political participation

77. Persons with disabilities have the right to fully participate, on a basis of equality, in public and political affairs. Guarantees of participatory rights, while important in and of themselves, are also crucial to redressing the exclusion, marginalization and disadvantages that persons with disabilities continue to face in all areas of social, economic, cultural and political life.[49]

78. The Convention on the Rights of Persons with Disabilities establishes "[f]ull and effective participation and inclusion in society" as one of the general principles (art. 3 (c)) that are used to guide the interpretation and implementation of all of the rights and obligations contained in the Convention.

79. Article 29 of the Convention on the Rights of Persons with Disabilities specifically deals with the equal rights of persons with disabilities to participate in political and public life. The article covers both the right and the opportunity of persons with disabilities to vote and to be elected as well as the obligations of States parties to create an enabling environment in which persons with disabilities can take part in all aspects of public and political life, including through membership in organizations of persons with disabilities at the local, regional, national and international levels.

80. The Committee on the Rights of Persons with Disabilities, in its General Comment No. 1, highlights discriminatory restrictions of legal capacity, which have effectively excluded persons with disabilities from political participation, especially the right to vote. This form of discrimination has been frequently observed in relation to people with psychosocial or intellectual impairments (A/HRC/19/36, para. 70). The Committee notes that a "person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising all of their political rights, including the right to vote, the right to stand for election and the right to serve as a member of a jury".[50]

81. The Committee goes on to underline the positive obligations for States under article 29 of the Convention, and these are interpreted as including the creation and promotion of accessible and non-discriminatory voting and electoral procedures, as well as providing support for the choices of people with disabilities in voting by secret ballot. The Committee further recommends that "States parties guarantee the right of persons with disabilities to stand for elections, to hold office effectively and to perform all public functions at all levels of government, with reasonable accommodation and support, where desired, in the exercise of their legal capacity".[51]

82. Article 29 of the Convention also protects the rights of persons with disabilities to participate in the civil society organizations that represent them. This right is complementary to the provision in article 33 (3) that gives an active role to organizations of persons with disabilities and broader civil society in monitoring the Convention at the national level (A/HRC/13/29).

F. Civil society organizations, human rights defenders and equal political participation

83. The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental

[49] Convention on the Rights of Persons with Disabilities, article 4 (3).
[50] Committee on the Rights of Persons with Disabilities, General Comment No. 1, para. 48.
[51] *Ibid.*, para. 49.

Freedoms contains a number of provisions that relate to the rights to participate in public and political affairs. Article 8 (2) of the Declaration provides that "[t]his includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms".

84. The international human rights mechanisms have drawn attention to the key role played by human rights defenders and civil society organizations in the promotion and protection of all human rights, including the rights to political and public participation.[52] In many contexts, however, human rights defenders and civil society organizations have been subjected to forms of discrimination such as onerous administrative requirements, criminalization of their activities, stigmatization, harassment and other forms of violent reprisals, which leave them unable to freely exercise their rights to contribute to public debate on issues of concern.[53]

85. Discrimination, unequal treatment, harassment and restrictions of the rights to public and political participation are often directed against human rights defenders and civil society organizations advocating for the rights of marginalized groups.[54] Those most at risk include people and organizations engaged in defending the rights of persons with disabilities, youth and children, women, lesbian, gay, bisexual, transgender and intersex people, members of minority groups, indigenous peoples, internally displaced persons, and non-nationals such as refugees, asylum seekers and migrant workers (A/HRC/26/29, paras. 10–11).

86. Women human rights defenders are subject to the same types of risks as other human rights defenders but, as women, they are also targeted for or exposed to gender-specific threats and gender-specific violence. When women human rights defenders engage to promote women's political participation, they are seen as challenging traditional notions of gender roles and, as a result, they can be stigmatized and subjected to discrimination and violence.

87. Several of the United Nations human rights mechanisms have examined the rights of civil society organizations and human rights defenders to participate, without any discrimination, in the conduct of public and political affairs. Effective participation includes the right of civil society actors to have their views incorporated within legislative and policymaking processes and to freely voice criticism or to submit proposals to improve the functioning of public authorities.[55]

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[52] Human Rights Council, Interactive discussion on protecting civil society space to guarantee human rights, March 2014.

[53] Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (see footnote 20 above); and A/HRC/13/22.

[54] *Ibid.*

[55] See Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (footnote 20 above); and A/HRC/16/44/Add.2, para. 106.

V. Conclusion and recommendations

88. **The right to participate in political and public affairs is a key human right in itself as well as a right that enables the full implementation of many other human rights. It plays an important role in identifying and remedying discrimination in that it helps to ensure that the views and interests of all members of society are reflected in legislation, policies and other forms of public decision-making.**

89. **The rights to political and public participation are broad in scope and range from electoral rights to equal access to public service and direct and indirect forms of participation in the conduct of public affairs at all levels, from the local to the international. The concept of political and public participation is evolving, and several international human rights mechanisms have recognized that participatory rights may now be read as encompassing the rights to be consulted and to be provided with equal and effective opportunities to be involved in decision-making processes on all matters of public concern.**

90. **Comprehensive legislation to entrench the principle of substantive equality within the national constitutional framework should be adopted, monitored and enforced. Discriminatory legislation should be repealed and all forms of discrimination, including multiple and intersectional discrimination, in public and private life, should be prohibited with effective access to justice guaranteed for all people who have suffered from discrimination. Steps should be taken to ratify and implement international human rights treaties, including those with individual petition or complaint mechanisms, and to ensure these are given effect within national laws.**

91. **Support should be provided for the creation of independent national human rights institutions based on the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). National human rights institutions should be competent to receive complaints, make legislative and policy recommendations and conduct monitoring and awareness-raising activities in relation to all forms of discrimination, including multiple and intersectional discrimination, in every area of public and private life.**

92. **Temporary special measures for underrepresented groups – including women, indigenous peoples, minorities and persons with disabilities – adapted to the national context and accompanied by other participatory programmes, should be enacted through legislation with a view to increasing equal participation in all aspects of political and public life.**

93. **Any restrictions on eligibility for citizenship and the exercise of political rights should be based on objective, reasonable and non-discriminatory criteria and these restrictions should only be applied in exceptional circumstances. To this end, discriminatory laws or regulations in relation to the conditions for acquiring or exercising rights connected to citizenship should be amended or repealed.**

94. **Legislation should be enacted to encourage independent, plural media services and to ensure that journalists, human rights defenders and civil society organizations are able to freely pursue their activities. Administrative requirements related to the registration and financing of civil society organizations, the conduct of peaceful assemblies and other activities connected to the exercise of political and public participation rights should be reviewed to ensure that they are not discriminatory and that they do not unduly limit the enjoyment of rights to participate in public affairs.**

95. **Information and educational materials in accessible formats and languages that present the political process as well as the related international human rights framework should be developed. Appropriate outreach activities aimed at effectively involving women, indigenous peoples, persons with disabilities, minorities and other marginalized groups in the design and implementation of communication strategies and campaigns on political and public participation should be undertaken.**

96. **Candidates for public office, parliaments and other public institutions, as well as politicians, should be engaged in order to promote awareness and debate about equality, human rights and inclusive policymaking and legislation.**

97. **The development of social media platforms and associated opportunities to freely take part in online activism has the potential to reduce inequalities in connection with political and public participation. States should foster and encourage the use of new and assistive technologies to improve access to political and public life for people with disabilities, restricted mobility or limited literacy, and other groups.**

98. **Data on political and public participation by women, indigenous peoples, persons with disabilities, minorities and other underrepresented groups should be systematically collected, disaggregated and analysed in order to inform policies and strategies to promote the effective participation of people from all social groups in public and political life.**

99. **Appropriate follow-up and support should be provided for the implementation of the Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities as well as other relevant recommendations on equal political participation and non-discrimination made by the human rights mechanisms.**

100. **Existing international platforms for the promotion of equal political and public participation rights, such as the Permanent Forum on Indigenous Issues, the Forum on Minority Issues and the World Forum for Democracy should be supported and extended. States and other stakeholders should seek to implement the recommendations on equal political and public participation made by these forums.**

101. **Specific strategies for the promotion and protection of political and public participation rights should be developed within the framework of international cooperation and assistance programmes, particularly in connection with States in transition. These programmes should be inclusive and focus, as a priority, on engaging with people from marginalized groups.**